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Agenda item 74

Responsibility of States for internationally wrongful acts

Report of the Sixth Committee

Rapporteur: Mr. Isaias **Medina** (Bolivarian Republic of Venezuela)

I. Introduction

1. The item entitled "Responsibility of States for internationally wrongful acts" was included in the provisional agenda of the seventy-first session of the General Assembly pursuant to Assembly resolution 68/104 of 16 December 2013.

2. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 9th, 31st and 33rd meetings, on 7 October and on 4 and 11 November 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General transmitting comments and information received from Governments (A/71/79);

(b) Report of the Secretary-General containing a compilation of decisions of international courts, tribunals and other bodies (A/71/80).

5. At its 1st meeting, on 3 October 2016, the Committee decided, pursuant to General Assembly resolution 68/104, to establish a working group on the responsibility of States for internationally wrongful acts, in order to fulfil the mandate conferred by the Assembly on the Committee, namely, to further examine the question of a convention on the topic or other appropriate action on the basis of

[1] A/C.6/71/SR.9, A/C.6/71/SR.31 and A/C.6/71/SR.33.

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the articles drafted by the International Law Commission. At the same meeting, the Committee decided to open the Working Group to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency. The Working Group, which was chaired by Mr. Patrick Luna (Brazil), held three meetings, on 13, 19 and 21 October 2016.

6. At its 31st meeting, on 4 November, the Committee heard and took note of the oral report of the Chair of the Working Group.

II. Consideration of draft resolution A/C.6/71/L.28

7. At the 33rd meeting, on 11 November, the representative of Brazil, on behalf of the Bureau, introduced a draft resolution entitled "Responsibility of States for internationally wrongful acts" (A/C.6/71/L.28).

8. At the same meeting, the Committee adopted draft resolution A/C.6/71/L.28 without a vote (see para. 9).

III. Recommendation of the Sixth Committee

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Responsibility of States for internationally wrongful acts

The General Assembly,

Recalling its resolution 56/83 of 12 December 2001, the annex to which contains the text of the articles on responsibility of States for internationally wrongful acts, and its resolutions 59/35 of 2 December 2004, 62/61 of 6 December 2007, 65/19 of 6 December 2010 and 68/104 of 16 December 2013 commending the articles to the attention of Governments,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the subject of responsibility of States for internationally wrongful acts is of major importance in relations between States,

Taking into account the comments and observations of Governments[1] and the discussions held in the Sixth Committee, at the fifty-sixth, fifty-ninth, sixty-second, sixty-fifth, sixty-eighth and seventy-first sessions of the General Assembly, on responsibility of States for internationally wrongful acts,

Noting with appreciation the compilation of decisions of international courts, tribunals and other bodies referring to the articles, prepared by the Secretary-General,[2]

Noting the discussion on whether Member States should examine all procedural options regarding possible action on the basis of the articles,

1. *Acknowledges* that a growing number of decisions of international courts, tribunals and other bodies refer to the articles on responsibility of States for internationally wrongful acts;[3]

2. *Continues to acknowledge* the importance and usefulness of the articles, and commends them once again to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action;

3. *Requests* the Secretary-General to invite Governments to submit further written comments on any future action regarding the articles;

4. *Also requests* the Secretary-General to prepare a technical report listing, in a tabular format, the references to the articles contained in the compilation of decisions of international courts, tribunals and other bodies referring to the articles prepared since 2001, as well as references to the articles made in submissions presented by Member States before international courts, tribunals and other bodies

[1] See A/62/63 and Add.1, A/65/96 and Add.1, A/68/69 and Add.1 and A/71/79.
[2] See A/62/62 and Corr.1 and Add.1, A/65/76, A/68/72 and A/71/80.
[3] Resolution 56/83, annex.

since 2001, and further requests the Secretary-General to submit such material during its seventy-first session;

5. *Acknowledges* the possibility of requesting, at its seventy-fourth session, the Secretary-General to provide the General Assembly with information on all procedural options regarding possible action on the basis of the articles, without prejudice to the question of whether such possible action is appropriate;

6. *Requests* the Secretary-General to update the compilation of decisions of international courts, tribunals and other bodies referring to the articles and to invite Governments to submit information on their practice in this regard, and also requests the Secretary-General to submit such material well in advance of its seventy-fourth session;

7. *Acknowledges* the constructive dialogue in the context of the working group of the Sixth Committee during the seventy-first session of the General Assembly, and encourages all Member States to continue the substantive dialogue on an informal basis during the period prior to the seventy-fourth session of the Assembly;

8. *Decides* to include in the provisional agenda of its seventy-fourth session the item entitled "Responsibility of States for internationally wrongful acts" and to further examine, within the framework of a working group of the Sixth Committee and with a view to taking a decision, the question of a convention on responsibility of States for internationally wrongful acts or other appropriate action on the basis of the articles.

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Criminal accountability of United Nations officials and experts on mission

Report of the Sixth Committee

Rapporteur: Mr. Isaias **Medina** (Bolivarian Republic of Venezuela)

I. Introduction

1. The item entitled "Criminal accountability of United Nations officials and experts on mission" was included in the provisional agenda of the seventy-first session of the General Assembly pursuant to Assembly resolution 70/114 of 14 December 2015.

2. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 8th, 9th and 33rd meetings, on 7 October and on 11 November 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/71/167).

II. Consideration of draft resolution A/C.6/71/L.25

5. At the 33rd meeting, on 11 November, the representative of Pakistan, on behalf of the Bureau, introduced a draft resolution entitled "Criminal accountability of United Nations officials and experts on mission" (A/C.6/71/L.25).

6. At the same meeting, the Committee adopted draft resolution A/C.6/71/L.25 without a vote (see para. 7).

[1] A/C.6/71/SR.8, A/C.6/71/SR.9 and A/C.6/71/SR.33.

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III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Criminal accountability of United Nations officials and experts on mission

The General Assembly,

Recalling its resolution 59/281 of 29 March 2005, in which it endorsed the recommendation of the Special Committee on Peacekeeping Operations that the Secretary-General make available to the United Nations membership a comprehensive report on the issue of sexual exploitation and abuse in United Nations peacekeeping operations,[1]

Recalling also that the Secretary-General, on 24 March 2005, transmitted to the President of the General Assembly a report of his Adviser concerning sexual exploitation and abuse by United Nations peacekeeping personnel,[2]

Recalling further its resolution 59/300 of 22 June 2005, in which it endorsed the recommendation of the Special Committee that a group of legal experts be established to provide advice on the best way to proceed so as to ensure that the original intent of the Charter of the United Nations can be achieved, namely, that United Nations staff and experts on mission would never be effectively exempt from the consequences of criminal acts committed at their duty station, nor unjustly penalized, without due process,[3]

Underlining the importance of a zero-tolerance policy for misconduct and the commission of crimes by United Nations officials and experts on mission,

Recognizing the valuable contribution of United Nations officials and experts on mission towards the fulfilment of the purposes and principles of the Charter,

Reaffirming the need to promote and ensure respect for the principles and rules of international law,

Reaffirming also that the present resolution is without prejudice to the privileges and immunities of United Nations officials and experts on mission and the United Nations under international law,

Reaffirming further the obligation of United Nations officials and experts on mission to respect the national laws of the host State, as well as the right of the host State to exercise, where applicable, its criminal jurisdiction, in accordance with the relevant rules of international law and agreements governing operations of United Nations missions,

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[1] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part one, chap. III, sect. D, para. 56.

[2] See A/59/710.

[3] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1), part two, chap. II, sect. N, para. 40 (a).

Underlining the importance of appropriate training of United Nations officials and experts on mission to prevent any criminal conduct,

Deeply concerned by reports of criminal conduct, and conscious that such conduct, if not investigated and, as appropriate, prosecuted, would create the negative impression that United Nations officials and experts on mission operate with impunity,

Reaffirming the need to ensure that all United Nations officials and experts on mission function in a manner that preserves the image, credibility, impartiality and integrity of the United Nations,

Emphasizing that crimes committed by such persons are unacceptable and have a detrimental effect on the fulfilment of the mandate of the United Nations, in particular with respect to the relations between the United Nations and the local population in the host country,

Conscious of the importance of protecting the rights of victims of criminal conduct, as well as of ensuring adequate protection for witnesses, and recalling the adoption of its resolution 62/214 of 21 December 2007 on the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel,

Emphasizing that genuine accountability rests on the cooperation of the Member States,

Emphasizing also the need to enhance international cooperation to ensure the criminal accountability of United Nations officials and experts on mission,

Taking note of the report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people,[4] and of the subsequent report of the Secretary-General entitled "The future of United Nations peace operations: implementation of the recommendations of the High-level Independent Panel on Peace Operations",[5]

Taking note also of the report of the Joint Inspection Unit on fraud prevention, detection and response in United Nations system organizations,[6] the Anti-Fraud and Anti-Corruption Framework of the United Nations Secretariat of September 2016[7] and the report of the Secretary-General on his practice in disciplinary matters and cases of possible criminal behaviour for the period from 1 July 2015 to 30 June 2016,[8]

Recalling its resolution 61/29 of 4 December 2006, by which it established the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission,

Having considered at its previous sessions the report of the Group of Legal Experts established by the Secretary-General pursuant to its resolution 59/300[9] and

[4] See A/70/95-S/2015/446.
[5] A/70/357-S/2015/682.
[6] JIU/REP/2016/4.
[7] ST/IC/2016/25, annex.
[8] A/71/186.
[9] A/60/980.

the reports of the Ad Hoc Committee,[10] as well as the note by the Secretariat[11] and the reports of the Secretary-General[12] on criminal accountability of United Nations officials and experts on mission,

Recalling its resolutions 62/63 of 6 December 2007, 63/119 of 11 December 2008, 64/110 of 16 December 2009, 65/20 of 6 December 2010, 66/93 of 9 December 2011, 67/88 of 14 December 2012, 68/105 of 16 December 2013, 69/114 of 10 December 2014 and 70/114 of 14 December 2015,

Recalling also its decision that, bearing in mind its resolutions 62/63 and 70/114, the consideration of the report of the Group of Legal Experts, in particular its legal aspects, taking into account the views of Member States and also noting the inputs by the Secretariat, would be continued during its seventy-third session in the framework of a working group of the Sixth Committee,

Convinced of the continuing need for the United Nations and its Member States to urgently take strong and effective steps to ensure the criminal accountability of United Nations officials and experts on mission in the interest of justice,

1. *Takes note* of the report of the Secretary-General, in particular annex II thereto providing additional information on the nature of the allegations and information received from States on all referrals since 1 July 2007;[13]

2. *Also takes note* of the reports of the Secretary-General on special measures for protection from sexual exploitation and sexual abuse,[14] as well as the findings of the Office of Internal Oversight Services of the Secretariat in its evaluation report of 15 May 2015, including on the issue of underreporting;[15]

3. *Welcomes* the commitment of the Secretary-General to refer credible allegations of sexual exploitation and abuse to the Member State of the United Nations officials or experts on mission for appropriate action;

4. *Also welcomes* the appointment of the Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse, and requests the Secretary-General to regularly update Member States on progress with respect to the implementation of the mandate of the Special Coordinator;

5. *Expresses its concern* with respect to all alleged crimes on the part of United Nations officials and experts on mission, including allegations of fraud, corruption and other financial crimes, and in that regard welcomes the reaffirmation by the Secretary-General that there will be no tolerance for any corruption at the United Nations;

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[10] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 54* (A/62/54); and ibid., *Sixty-third Session, Supplement No. 54* (A/63/54).

[11] A/62/329.

[12] A/63/260 and Add.1, A/64/183 and Add.1, A/65/185, A/66/174 and Add.1, A/67/213, A/68/173, A/69/210 and A/70/208.

[13] A/71/167.

[14] A/70/729 and A/71/97.

[15] "Evaluation of the enforcement and remedial assistance efforts for sexual exploitation and abuse by the United Nations and related personnel in peacekeeping operations", as reissued on 12 June 2015.

6. *Urges* the Secretary-General to continue to ensure that his zero-tolerance policy for criminal activities, such as sexual exploitation and abuse, fraud and corruption, is made known to all United Nations officials and experts on mission at all levels, especially those in managerial positions, and is fully implemented in a coherent and coordinated manner throughout the United Nations, including funds and programmes, and calls upon all entities in the United Nations to inform and to cooperate fully with the Office of Legal Affairs of the Secretariat in all cases involving allegations that a crime may have been committed by United Nations officials and experts on mission;

7. *Expresses its concern* with respect to the low rate of response from States to referred allegations, as requested in its resolution 70/114;

8. *Strongly urges* States to take all appropriate measures to ensure that crimes by United Nations officials and experts on mission do not go unpunished and that the perpetrators of such crimes are brought to justice, without prejudice to the privileges and immunities of such persons and the United Nations under international law, and in accordance with international human rights standards, including due process;

9. *Strongly urges* all States to consider establishing, to the extent that they have not yet done so, jurisdiction over crimes, particularly those of a serious nature, as known in their existing national criminal laws, committed by their nationals while serving as United Nations officials or experts on mission, at least where the conduct as defined in the law of the State establishing jurisdiction also constitutes a crime under the laws of the host State, and, further, urges States and appropriate international organizations to provide technical and other appropriate assistance in developing such legal measures to States requesting such support;

10. *Encourages* all States and the United Nations to cooperate with each other in the exchange of information and in facilitating the conduct of investigations and, as appropriate, the prosecution of United Nations officials and experts on mission who are alleged to have committed crimes of a serious nature, in accordance with their national law and applicable United Nations rules and regulations, fully respecting due process rights, as well as to consider strengthening the capacities of their national authorities to investigate and prosecute such crimes;

11. *Encourages* all States:

(a) To afford each other assistance in connection with criminal investigations or criminal or extradition proceedings in respect of crimes of a serious nature committed by United Nations officials and experts on mission, including assistance in obtaining evidence at their disposal, in accordance with their national law or any treaties or other arrangements on extradition and mutual legal assistance that may exist between them;

(b) In accordance with their national law, to explore ways and means of facilitating the possible use of information and material obtained from the United Nations for purposes of criminal proceedings initiated in their territory for the prosecution of crimes of a serious nature committed by United Nations officials and experts on mission, bearing in mind due process considerations;

(c) In accordance with their national law, to provide effective protection for victims of, witnesses to and others who provide information in relation to crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission and to facilitate access of victims to victim assistance programmes, without prejudice to the rights of the alleged offender, including those relating to due process;

(d) In accordance with their national law, to explore ways and means of responding adequately to requests by host States for support and assistance in order to enhance their capacity to conduct effective investigations in respect of crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission;

12. *Requests* the Secretariat to continue to ensure that requests to Member States seeking personnel to serve as experts on mission make States aware of the expectation that persons who serve in that capacity should meet high standards in their conduct and behaviour and be aware that certain conduct may amount to a crime for which they may be held accountable, and also requests that the Secretariat take all appropriate measures to continue to ensure that all such personnel, as well as United Nations officials, are properly vetted by the States contributing personnel and by the Organization for any prior misconduct while serving with the United Nations;

13. *Urges* the Secretary-General to make Member States contributing personnel to serve as experts on mission aware of the necessity of providing appropriate conduct-related training prior to deployment, and also urges the Secretary-General to continue to take such practical measures as are within his authority to strengthen existing training on United Nations standards of conduct, including through predeployment and in-mission induction training for United Nations officials and experts on mission;

14. *Reiterates* its decision that, bearing in mind its resolutions 62/63 and 63/119, the consideration of the report of the Group of Legal Experts,[9] in particular its legal aspects, taking into account the views of Member States and also noting the inputs by the Secretariat, shall be continued during its seventy-third session in the framework of a working group of the Sixth Committee, and, for that purpose, invites further comments from Member States on that report, including on the question of future action;

15. *Takes note* of the briefings by the Secretariat during the seventieth and seventy-first sessions, and decides to organize another briefing at the seventy-second session with a view to furthering discussion on measures that could be taken to help ensure the accountability of United Nations officials and experts on mission and prevent future crimes;

16. *Recognizes* the efforts of Member States towards devising concrete proposals to ensure the accountability of United Nations officials and experts on mission, and encourages all Member States to redouble their efforts informally during the intersessional period, with the support of the Secretariat, in particular through the organization of informal briefings;

17. *Requests* the Secretary-General to bring credible allegations that reveal that a crime may have been committed by United Nations officials or experts on

mission to the attention of the States against whose nationals such allegations are made and to request from those States updates, as set out in paragraph 19 below, on the status of their efforts to investigate and, as appropriate, prosecute crimes of a serious nature, as well as the types of appropriate assistance that States may wish to receive from the Secretariat for the purposes of such investigations and prosecutions;

18. *Also requests* the Secretary-General to seek, from all States that have notified the United Nations with respect to investigations or prosecutions of crimes allegedly committed by United Nations officials or experts on mission, updates on the status of their investigations or prosecutions, provided that this would not prejudice national investigations or national proceedings;

19. *Urges* the States referred to in paragraphs 17 and 18 above to provide to the Secretary-General periodic updates on their handling of the allegations, in particular informing the Secretary-General of whether any disciplinary or criminal proceedings have been brought and of the outcome of any such proceedings or the reasons for not initiating them, provided that this would not be contrary to national laws or prejudice national investigations or national proceedings, and requests the Secretary-General to continue and undertake the necessary follow-up with the States concerned, with a view to encouraging those States to respond;

20. *Requests* the United Nations, when its investigations into allegations suggest that crimes of a serious nature may have been committed by United Nations officials or experts on mission, to consider any appropriate measures that may facilitate the possible use of information and material for purposes of criminal proceedings initiated by States, bearing in mind due process considerations;

21. *Encourages* the United Nations, when allegations against United Nations officials or experts on mission are determined by a United Nations administrative investigation to be unfounded, to take appropriate measures, in the interests of the Organization, to restore the credibility and the reputation of such officials and experts on mission;

22. *Urges* the United Nations to continue cooperating with States exercising jurisdiction in order to provide them, within the framework of the relevant rules of international law and agreements governing activities of the United Nations, with information and material for purposes of criminal proceedings initiated by States;

23. *Underlines* the importance of a culture in which individuals are encouraged and supported by the Organization to report alleged crimes, emphasizes that the United Nations, in accordance with the applicable rules of the Organization, should take no action that would retaliate against or intimidate United Nations officials and experts on mission who report allegations concerning crimes of a serious nature committed by United Nations officials and experts on mission, and stresses the need for appropriate safeguards against retaliation;

24. *Takes note with appreciation* of the information provided by Governments in response to its resolutions 62/63, 63/119, 64/110, 65/20, 66/93, 67/88, 68/105, 69/114 and 70/114, and urges Governments to continue taking the measures necessary for the implementation of those resolutions, including their provisions addressing the establishment of jurisdiction over crimes, particularly those of a serious nature, as known in their existing national criminal laws,

committed by their nationals while serving as United Nations officials or experts on mission, as well as cooperation among States, and to provide specific details thereon, in particular with respect to paragraph 9 above, in the information provided to the Secretary-General;

25. *Recalls its request* in resolution 70/114 for Governments to provide specific details on the measures taken, as necessary, for the implementation of its resolutions 62/63, 63/119, 64/110, 65/20, 66/93, 67/88, 68/105 and 69/114, and notes that, in response to those resolutions, 108 submissions were received from 58 Member States between 6 December 2007 and 20 July 2016;

26. *Requests* the Secretary-General to prepare and keep updated a report containing a compilation and a summary table of national provisions, based on information received from Member States since 2007, regarding the establishment of jurisdiction over their nationals whenever they serve as United Nations officials or experts on mission, in relation to crimes as known in their existing national criminal laws, particularly those of a serious nature, and in this regard takes note of the questionnaire distributed by the Secretariat to all Member States to assist in this process;

27. *Also requests* the Secretary-General to submit a report setting out all relevant existing United Nations policies and procedures of the United Nations system regarding the allegations referred to in paragraphs 17 and 18 above;

28. *Reiterates its request* to the Secretary-General to report to the General Assembly at its seventy-second session on the implementation of the present resolution, in particular with respect to paragraphs 9, 11, 12, 14, 17 and 19 above, as well as any practical problems in its implementation, on the basis of information received from Governments and the Secretariat;

29. *Requests* the Secretary-General to continue to improve reporting methods and expand the scope of reporting, by providing information on the allegations referred to in paragraphs 17 and 18 above as well as information received pursuant to paragraph 19 since 1 July 2007, limited to the United Nations entity involved, the year of referral, the dates of follow-up requests from the Secretary-General, information about the type of crime and summary of allegations, status of investigations, prosecutorial and disciplinary actions taken, including with respect to individuals concerned who have left the duty mission or the service of the United Nations, any requests for waivers of immunity, as applicable, and information on jurisdictional, evidentiary or other obstacles to prosecution, while protecting the privacy of the victims as well as respecting the privacy and rights of those subject to the allegations;

30. *Decides* to include in the provisional agenda of its seventy-second session the item entitled "Criminal accountability of United Nations officials and experts on mission".

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Report of the United Nations Commission on International Trade Law on the work of its forty-ninth session

Report of the Sixth Committee

Rapporteur: Mr. Isaias **Medina** (Bolivarian Republic of Venezuela)

I. Introduction

1. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its seventy-first session the item entitled "Report of the United Nations Commission on International Trade Law on the work of its forty-ninth session" and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 11th, 12th, 19th and 24th meetings, on 10, 11, 20 and 27 October 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

3. For its consideration of the item, the Committee had before it the report of the United Nations Commission on International Trade Law on the work of its forty-ninth session (A/71/17).

4. At the 11th meeting, on 10 October, the Chair of the United Nations Commission on International Trade Law at its forty-ninth session introduced the report of the Commission on the work of its forty-ninth session.

[1] A/C.6/71/SR.11, A/C.6/71/SR.12, A/C.6/71/SR.19 and A/C.6/71/SR.24.

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II. Consideration of proposals

A. Draft resolution A/C.6/71/L.10

5. At the 19th meeting, on 20 October, the representative of Austria, on behalf of Algeria, Argentina, Austria, Bulgaria, Canada, Chile, Croatia, Cyprus, Czechia, Denmark, El Salvador, Finland, France, Germany, Greece, Hungary, Iceland, India, Italy, Japan, Liechtenstein, Luxembourg, Madagascar, Mauritius, the Netherlands, the Philippines, Poland, Portugal, Romania, Serbia, Slovakia, Spain, Sweden, Thailand, Trinidad and Tobago, the United Kingdom of Great Britain and Northern Ireland and the United States of America, subsequently joined by Australia, Ireland, New Zealand, the Russian Federation, Singapore and Switzerland, introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its forty-ninth session" (A/C.6/71/L.10).

6. At the 24th meeting, on 27 October, Belgium, Israel, the Republic of Moldova and Ukraine joined in sponsoring the draft resolution.

7. At the same meeting, the Committee adopted draft resolution A/C.6/71/L.10 without a vote (see para. 14, draft resolution I).

B. Draft resolution A/C.6/71/L.11

8. At the 19th meeting, on 20 October, the representative of Austria, on behalf of the Bureau, introduced a draft resolution entitled "Model Law on Secured Transactions of the United Nations Commission on International Trade Law" (A/C.6/71/L.11).

9. At its 24th meeting, on 27 October, the Committee adopted draft resolution A/C.6/71/L.11 without a vote (see para. 14, draft resolution II).

C. Draft resolution A/C.6/71/L.12

10. At the 19th meeting, on 20 October, the representative of Austria, on behalf of the Bureau, introduced a draft resolution entitled "2016 Notes on Organizing Arbitral Proceedings of the United Nations Commission on International Trade Law" (A/C.6/71/L.12).

11. At its 24th meeting, on 27 October, the Committee adopted draft resolution A/C.6/71/L.12 without a vote (see para. 14, draft resolution III).

D. Draft resolution A/C.6/71/L.13

12. At the 19th meeting, on 20 October, the representative of Austria, on behalf of the Bureau, introduced a draft resolution entitled "Technical Notes on Online Dispute Resolution of the United Nations Commission on International Trade Law" (A/C.6/71/L.13).

13. At its 24th meeting, on 27 October, the Committee adopted draft resolution A/C.6/71/L.13 without a vote (see para. 14, draft resolution IV).

III. Recommendation of the Sixth Committee

14. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Report of the United Nations Commission on International Trade Law on the work of its forty-ninth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity, common interest and respect for the rule of law, to the elimination of discrimination in international trade and, thereby, to peace, stability and the well-being of all peoples,

Having considered the report of the Commission,[1]

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law;[1]

[1] *Official Records of the General Assembly, Seventy-first Session, Supplement No. 17* (A/71/17).

2. *Commends* the Commission for the finalization and adoption of the Model Law on Secured Transactions,[2] the 2016 Notes on Organizing Arbitral Proceedings[3] and the Technical Notes on Online Dispute Resolution;[4]

3. *Notes with satisfaction* that the Commission has instructed its secretariat to commence preparations for a Congress to commemorate the Commission's fiftieth anniversary during its fiftieth session, with the objectives to discuss technical issues and to raise awareness of the Commission and its potential to support cross-border commerce;[5]

4. *Also notes with satisfaction* the contributions from the Fund for International Development of the Organization of the Petroleum Exporting Countries and from the European Union, which allow the operation of the repository of published information under the Rules on Transparency in Treaty-based Investor-State Arbitration[6] until the end of 2016 and beyond, and that the Commission reiterated its strong and unanimous opinion that the secretariat of the Commission should continue to operate the transparency repository, which constitutes a central feature both of the Rules on Transparency and of the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (Mauritius Convention on Transparency);[7]

5. *Requests* the Secretary-General to continue to operate, through the secretariat of the Commission, the repository of published information in accordance with article 8 of the Rules on Transparency, as a pilot project until the end of 2017, to be funded entirely by voluntary contributions, and to keep the General Assembly informed of developments regarding the funding and budgetary situation of the transparency repository based on its pilot operation;

6. *Takes note with interest* of the decisions taken by the Commission as regards its future work and the progress made by the Commission in its work in the areas of dispute settlement,[8] electronic commerce, insolvency law, security interests[9] and international trade law aimed at reducing the legal obstacles faced by micro-, small- and medium-sized enterprises throughout their life cycle, and encourages the Commission to continue to move forward efficiently to achieve tangible work outcomes;

7. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law and at promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to

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[2] Ibid., chap. III, sect. A.
[3] Ibid., chap. IV, sect. A.
[4] Ibid., chap. V and annex I.
[5] Ibid., paras. 368-370.
[6] Ibid., *Sixty-eighth Session, Supplement No. 17* (A/68/17), annex I.
[7] Resolution 69/116, annex.
[8] See *Official Records of the General Assembly, Seventy-first Session, Supplement No. 17* (A/71/17), chaps. IV and V.
[9] Ibid., chap. III.

promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

8. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with technical cooperation and assistance in the field of international trade law reform and development, and in this connection:

(a) Welcomes the initiatives of the Commission towards expanding, through its secretariat, its technical cooperation and assistance programme, and in that respect encourages the Secretary-General to seek partnerships with State and non-State actors to increase awareness about the work of the Commission and facilitate the effective implementation of legal standards resulting from its work;

(b) Expresses its appreciation to the Commission for carrying out technical cooperation and assistance activities and for providing assistance with legislative drafting in the field of international trade law, and draws the attention of the Secretary-General to the limited resources that are made available in this field;

(c) Expresses its appreciation to the Governments whose contributions enabled the technical cooperation and assistance activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, for the financing of special projects and otherwise to assist the secretariat of the Commission in carrying out technical cooperation and assistance activities, in particular in developing countries;

(d) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical cooperation and assistance programme of the Commission and to cooperate with the Commission and coordinate their activities with those of the Commission in the light of the relevance and importance of the work and programmes of the Commission for the promotion of the rule of law at the national and international levels and for the implementation of the international development agenda, including the achievement of the 2030 Agenda for Sustainable Development;[10]

(e) Recalls its resolutions stressing the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building, welcomes the efforts of the Secretary-General to ensure greater coordination and coherence among United Nations entities and with donors and recipients, notes the endorsement by the Commission of the Guidance Note on Strengthening United Nations Support to States, Upon Their Request, to Implement Sound Commercial Law Reforms,[11] and requests the Secretary-General to circulate the Guidance Note as broadly as possible to its intended users;

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[10] Resolution 70/1.

[11] *Official Records of the General Assembly, Seventy-first Session, Supplement No. 17* (A/71/17), para. 262 and annex II.

9. *Recalls* the importance of adherence to the rules of procedure and methods of work of the Commission, including transparent and inclusive deliberations, taking into account the summary of conclusions as reproduced in annex III to the report on the work of its forty-third session,[12] requests the Secretariat to issue, prior to meetings of the Commission and of its working groups, a reminder of those rules of procedure and methods of work with a view to ensuring the high quality of the work of the Commission and encouraging the assessment of its instruments, and in this regard recalls its previous resolutions related to this matter;

10. *Welcomes* the activities of the United Nations Commission on International Trade Law Regional Centre for Asia and the Pacific, in the Republic of Korea, towards providing capacity-building and technical assistance services to States in the Asia-Pacific region, including to international and regional organizations, expresses its appreciation to the Republic of Korea and China, whose contributions enabled continuing operation of the Regional Centre, notes that the continuation of the regional presence relies entirely on extrabudgetary resources, including but not limited to voluntary contributions from States, welcomes expressions of interest from other States in hosting regional centres of the Commission, and requests the Secretary-General to keep the General Assembly informed of developments regarding the establishment of regional centres, in particular their funding and budgetary situation;

11. *Appeals* to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the Trust Fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General, in order to enable renewal of the provision of that assistance and to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in those countries to put in place a regulatory and enabling environment for business, trade and investment;

12. *Decides*, in order to ensure full participation of all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the seventy-first session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

13. *Endorses* the conviction of the Commission that the implementation and effective use of modern private law standards in international trade are essential for advancing good governance, sustained economic development and the eradication of poverty and hunger and that the promotion of the rule of law in commercial relations should be an integral part of the broader agenda of the United Nations to promote the rule of law at the national and international levels, including through the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit in the Executive Office of the Secretary-General;

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[12] Ibid., *Sixty-fifth Session, Supplement No. 17* (A/65/17).

14. *Notes* the rule of law panel discussion held at the forty-ninth session of the Commission and the comments transmitted by the Commission pursuant to paragraph 20 of General Assembly resolution 70/118 of 14 December 2015, highlighting its role in promoting the rule of law, in particular the role of the multilateral treaty processes of the Commission in promoting and advancing the rule of law in the field of international trade law and the role of the Commission in promoting the rule of law by facilitating access to justice;[13]

15. *Notes with satisfaction* that, in paragraph 8 of the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels, adopted by consensus as resolution 67/1 of 24 September 2012, Member States recognized the importance of fair, stable and predictable legal frameworks for generating inclusive, sustainable and equitable development, economic growth and employment, generating investment and facilitating entrepreneurship and, in this regard, commended the work of the Commission in modernizing and harmonizing international trade law and that, in paragraph 7 of the declaration, Member States expressed their conviction that the rule of law and development were strongly interrelated and mutually reinforcing;

16. *Also notes with satisfaction* that, in paragraph 89 of the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, adopted by the General Assembly by consensus as resolution 69/313 of 27 July 2015, States endorsed the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of and cooperation on legal activities of international and regional organizations active in the field of international trade law and at promoting the rule of law at the national and international levels in this field;

17. *Reiterates its request* to the Secretary-General, in conformity with resolutions of the General Assembly on documentation-related matters,[14] which, in particular, emphasize that any invitation to limit, where appropriate, the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the particular characteristics of the mandate and functions of the Commission in the progressive development and codification of international trade law when implementing page limits with respect to the documentation of the Commission;[15]

18. *Requests* the Secretary-General to continue the publication of Commission standards and the provision of summary records of the meetings of the Commission, including committees of the whole established by the Commission for the duration of its annual session, relating to the formulation of normative texts, and takes note of the Commission's decision to continue the trial use of digital recordings, in parallel with summary records where applicable, with a view to assessing the experience of using digital recordings and, on the basis of that

[13] Ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), paras. 339-342.

[14] Resolutions 52/214, sect. B, 57/283 B, sect. III, and 58/250, sect. III.

[15] Resolutions 59/39, para. 9, and 65/21, para. 18; see also *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 124-128.

assessment, taking a decision at a future session regarding the possible replacement of summary records by digital recordings;[16]

19. *Recalls* paragraph 48 of its resolution 66/246 of 24 December 2011 regarding the rotation scheme of meetings between Vienna and New York;

20. *Stresses* the importance of promoting the use of texts emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to conventions, enacting model laws and encouraging the use of other relevant texts;

21. *Notes with appreciation* the work of the Secretariat on the system for the collection and dissemination of case law on Commission texts in the six official languages of the United Nations (the CLOUT system), notes the resource-intensive nature of the system, acknowledges the need for further resources to sustain and expand it, and in this regard welcomes efforts by the Secretariat towards building partnerships with interested institutions, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to assist the secretariat of the Commission in raising awareness as to the availability and usefulness of the CLOUT system in professional, academic and judiciary circles and in securing the funding required for the coordination and expansion of the system and the establishment, within the secretariat of the Commission, of a pillar focused on the promotion of ways and means of interpreting Commission texts in a uniform manner;

22. *Welcomes* the continued work of the Secretariat on digests of case law related to Commission texts, including their wide dissemination, as well as the continuing increase in the number of abstracts available through the CLOUT system, in view of the role of the digests and the CLOUT system as important tools for the promotion of the uniform interpretation of international trade law, in particular by building local capacity of judges, arbitrators and other legal practitioners to interpret those standards in the light of their international character and the need to promote uniformity in their application and the observance of good faith in international trade;

23. *Recalls* its resolutions affirming the importance of high-quality, user-friendly and cost-effective United Nations websites and the need for their multilingual development, maintenance and enrichment,[17] commends the fact that the website of the Commission is published in the six official languages of the United Nations, and welcomes the continuous efforts of the Commission to maintain and improve its website, including by developing new social media features, in accordance with the applicable guidelines.[18]

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[16] *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 17* (A/69/17), para. 276.

[17] Resolutions 52/214, sect. C, para. 3; 55/222, sect. III, para. 12; 56/64 B, sect. X; 57/130 B, sect. X; 58/101 B, sect. V, paras. 61-76; 59/126 B, sect. V, paras. 76-95; 60/109 B, sect. IV, paras. 66-80; and 61/121 B, sect. IV, paras. 65-77.

[18] Resolution 63/120, para. 20.

Draft resolution II
Model Law on Secured Transactions of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Recalling also its resolutions 56/81 of 12 December 2001, 63/121 of 11 December 2008, 65/23 of 6 December 2010 and 68/108 of 16 December 2013, in which it recommended that States consider or continue to consider becoming parties to the United Nations Convention on the Assignment of Receivables in International Trade[1] and giving favourable consideration to the *UNCITRAL Legislative Guide on Secured Transactions, the Supplement on Security Rights in Intellectual Property* and the *UNCITRAL Guide on the Implementation of a Security Rights Registry*, respectively,

Recalling further that, at its forty-sixth session, in 2013, the Commission entrusted Working Group VI (Security Interests) with the preparation of a model law on secured transactions based on the recommendations of the *UNCITRAL Legislative Guide on Secured Transactions* and consistent with all texts prepared by the Commission on secured transactions,[2]

Noting that Working Group VI devoted six sessions,[3] from 2013 to 2016, to the preparation of the Model Law on Secured Transactions,

Noting also that, at its forty-eighth session, in 2015, the Commission approved the substance of the registry-related provisions of the Model Law,[4]

Noting with satisfaction that the Model Law is based on the recommendations of the *UNCITRAL Legislative Guide on Secured Transactions* and consistent with all texts prepared by the Commission on secured transactions, and with those texts thus provides comprehensive guidance to States with respect to legal and practical issues that need to be addressed when implementing a modern secured transactions regime,

Recognizing that an efficient secured transactions regime with a publicly accessible security rights registry of the kind provided for in the Model Law is likely to increase access to affordable secured credit and thus promote economic growth, sustainable development, the rule of law and financial inclusion, as well as assist in combating poverty,

Recognizing also that the harmonization of national secured transactions regimes and registries on the basis of the Model Law is likely to increase the availability of secured credit across national borders and thus facilitate the

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[1] General Assembly resolution 56/81, annex.

[2] *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 17* (A/68/17), paras. 194 and 332.

[3] See A/CN.9/796, A/CN.9/802, A/CN.9/830, A/CN.9/836, A/CN.9/865 and A/CN.9/871.

[4] *Official Records of the General Assembly, Seventieth Session, Supplement No. 17* (A/70/17), para. 214.

development of international trade, which, if achieved on the basis of equality and mutual benefit to all States, is an important element in promoting friendly relations among States,

Recognizing further that secured transactions law reform could not be effectively implemented without the establishment of an efficient, publicly accessible security rights registry where information about the potential existence of a security right in movable assets may be registered, and that States urgently need guidance with respect to the establishment and operation of such registries,

Convinced that the Model Law will contribute to greater legal certainty in the exercise of international commercial activities for the benefit of all States, particularly developing countries and States with economies in transition,

Noting with appreciation that all States and interested international organizations were invited to participate in the preparation of the draft Model Law at all the sessions of the Working Group and at the forty-eighth and forty-ninth sessions of the Commission, either as members or as observers, and that comments received after circulation of the text of the Model Law to all Governments were before the Commission at its forty-ninth session,[5]

Expressing its appreciation to international intergovernmental and non-governmental organizations active in the field of secured transactions law reform for their participation in and support for the development of the Model Law,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for completing and adopting the Model Law on Secured Transactions;[6]

2. *Requests* the Secretary-General to publish the Model Law, including electronically, in the six official languages of the United Nations, and to disseminate it broadly to Governments and other interested bodies;

3. *Recommends* that all States give favourable consideration to the Model Law when revising or adopting legislation relevant to secured transactions, and invites States that have used the Model Law to advise the Commission accordingly;

4. *Also recommends* that, where necessary, States continue to give favourable consideration to the *UNCITRAL Guide on the Implementation of a Security Rights Registry* when revising relevant legislation, administrative regulations or guidelines, and to the *UNCITRAL Legislative Guide on Secured Transactions* and the *Supplement on Security Rights in Intellectual Property* when revising or adopting legislation relevant to secured transactions, and invites States that have used the guides to advise the Commission accordingly;

5. *Further recommends* that all States continue to consider becoming parties to the United Nations Convention on the Assignment of Receivables in International Trade,[1] the principles of which are also reflected in the Model Law, and the optional annex to which refers to the registration of notices with regard to assignments.

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[5] See A/CN.9/886 and A/CN.9/887 and Add.1.

[6] See *Official Records of the General Assembly, Seventy-first Session, Supplement No. 17* (A/71/17), chap. III, sect. A.

Draft resolution III
2016 Notes on Organizing Arbitral Proceedings of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Recalling also its resolution 51/161 of 16 December 1996, in which it commended the Commission for the finalization of the Notes on Organizing Arbitral Proceedings,

Reaffirming the value and increased use of arbitration as a method of settling disputes,

Recognizing the need for revising the Notes to conform to current arbitral practices,

Noting that the purpose of the Notes is to list and briefly describe matters relevant to the organization of arbitral proceedings and that the Notes, prepared with a focus on international arbitration, are intended to be used in a general and universal manner, regardless of whether the arbitration is administered by an arbitral institution,

Noting also that the Notes do not seek to promote any practice as best practice, given that procedural styles and practices in arbitration vary and each of them has its own merit,

Recognizing that the revision of the Notes was the subject of due deliberation in the Commission, which benefited greatly from consultations with Governments and interested intergovernmental and international non-governmental organizations active in the field of arbitration, including arbitral institutions, as well as individual experts,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for preparing and adopting the 2016 Notes on Organizing Arbitral Proceedings;[1]

2. *Recommends* the use of the 2016 Notes, including by parties to arbitration, arbitral tribunals and arbitral institutions, as well as for academic and training purposes with respect to international commercial dispute settlement;

3. *Requests* the Secretary-General to publish the 2016 Notes, including electronically, in the six official languages of the United Nations, and to make all efforts to ensure that the Notes become generally known and available.

[1] See *Official Records of the General Assembly, Seventy-first Session, Supplement No. 17* (A/71/17), chap. IV, sect. A.

Draft resolution IV
Technical Notes on Online Dispute Resolution of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Recognizing that the sharp increase in online cross-border transactions has raised a need for mechanisms for resolving disputes that arise from such transactions, and recognizing also that one such mechanism is online dispute resolution,

Observing that online dispute resolution can assist the parties in resolving the dispute in a simple, fast, flexible and secure manner, without the need for physical presence at a meeting or hearing,

Observing also that online dispute resolution represents significant opportunities for access to dispute resolution by buyers and sellers concluding cross-border commercial transactions, both in developed and developing countries,

Recalling that, at its forty-third session, in 2010, the Commission agreed that a working group should be established to undertake work in the field of online dispute resolution,[1] and that, at its forty-eighth session, in 2015, the Commission decided that the work should take the form of a non-binding descriptive document reflecting elements of an online dispute resolution process,[2]

Noting that the Technical Notes on Online Dispute Resolution[3] are non-binding and descriptive and reflect the principles of impartiality, independence, efficiency, effectiveness, due process, fairness, accountability and transparency,

Noting also that the Technical Notes are expected to contribute significantly to the development of systems to enable the settlement of disputes arising from cross-border low-value sales or service contracts concluded using electronic communications,

Convinced that the Technical Notes will significantly assist all States, in particular developing countries and States whose economies are in transition, online dispute resolution administrators, online dispute resolution platforms, neutrals and the parties to online dispute resolution proceedings in developing and using online dispute resolution systems,

Noting with appreciation that all States and interested international organizations were invited to participate in the preparation of the Technical Notes

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[1] *See Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), para. 257.

[2] Ibid., *Seventieth Session, Supplement No. 17* (A/70/17), para. 352.

[3] Ibid., *Seventy-first Session, Supplement No. 17* (A/71/17), annex I.

either as members or as observers from the forty-fourth to the forty-ninth sessions of the Commission, including through circulation of the text of the draft Technical Notes for comment to all States as well as to international organizations invited to attend the meetings of the Commission as observers,

Noting that the preparation of the Technical Notes was the subject of due deliberation in the Commission and that the draft text benefited from consultations with Governments and interested intergovernmental and international non-governmental organizations,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for preparing and adopting the Technical Notes on Online Dispute Resolution as annexed to the report of the Commission on the work of its forty-ninth session;[4]

2. *Requests* the Secretary-General to publish the text of the Technical Notes through all appropriate means, including electronically, in the six official languages of the United Nations, and to disseminate that text broadly to Governments and other interested bodies;

3. *Recommends* that all States and other stakeholders use the Technical Notes in designing and implementing online dispute resolution systems for cross-border commercial transactions;

4. *Requests* all States to support the promotion and use of the Technical Notes.

[4] Ibid., *Seventy-first Session, Supplement No. 17* (A/71/17).

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United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

Report of the Sixth Committee

Rapporteur: Mr. Isaias **Medina** (Bolivarian Republic of Venezuela)

I. Introduction

1. The item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law" was included in the provisional agenda of the seventy-first session of the General Assembly pursuant to Assembly resolution 70/116 of 14 December 2015.

2. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 17th, 18th, 30th and 32nd meetings, on 17 and 20 October and on 3 and 7 November 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General (A/71/432);

(b) Letter dated 29 September 2016 from the Permanent Representative of Thailand to the United Nations addressed to the Secretary-General (A/71/422).

[1] A/C.6/71/SR.17, A/C.6/71/SR.18, A/C.6/71/SR.30 and A/C.6/71/SR.32.

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II. Consideration of draft resolution A/C.6/71/L.17

5. At the 30th meeting, on 3 November, the representative of Ghana, on behalf of the Bureau, introduced a draft resolution entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law" (A/C.6/71/L.17).

6. At its 32nd meeting, on 7 November, the Committee adopted draft resolution A/C.6/71/L.17, without a vote (see para. 7).

III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law

The General Assembly,

Recalling its resolution 2099 (XX) of 20 December 1965, in which the General Assembly established the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law to contribute towards a better knowledge of international law as a means of strengthening international peace and security and promoting friendly relations and cooperation among States,

Noting that 2016 marks the beginning of the second half-century of the Programme of Assistance, and emphasizing the importance of ensuring the successful continuation of the Programme for the benefit of present and future generations of lawyers,

Reaffirming that the Programme of Assistance is a core activity of the United Nations and that it has provided the foundation for the efforts of the United Nations to promote a better knowledge of international law for more than half a century,

Recognizing the major contribution of the Programme of Assistance to the teaching and dissemination of international law for the benefit of lawyers in all countries, legal systems and regions of the world for more than half a century,

Emphasizing the important contribution of the Programme of Assistance, in particular the United Nations Regional Courses in International Law and the United Nations Audiovisual Library of International Law, to the furtherance of United Nations rule of law programmes and activities,

Reaffirming that the increasing demand for international law training and dissemination activities creates new challenges for the Programme of Assistance,

Recognizing the importance of the Programme of Assistance effectively reaching its beneficiaries, including with regard to languages, while bearing in mind limitations on available resources,

Taking note with appreciation of the report of the Secretary-General on the implementation of the Programme of Assistance[1] and the views of the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, which are contained in the report,

Noting with satisfaction that resources have been provided under the programme budget for the organization of the United Nations Regional Courses in

[1] A/71/432.

International Law on an annual basis and the further development of the United Nations Audiovisual Library of International Law,

Welcoming the organization, for the first time in the history of the Programme of Assistance, of all three of the United Nations Regional Courses in International Law for Africa, for Asia-Pacific and for Latin America and the Caribbean in 2016,

Noting with regret that the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea was not awarded in 2016 owing to insufficient voluntary contributions,

Considering that international law should occupy an appropriate place in the teaching of legal disciplines at all universities,

Convinced that States, international and regional organizations, universities and institutions should be encouraged to give further support to the Programme of Assistance and to increase their activities to promote the teaching, study, dissemination and wider appreciation of international law, in particular those activities which are of special benefit to persons from developing countries,

Reaffirming that in the conduct of the Programme of Assistance it would be desirable to use as far as possible the resources and facilities made available by Member States, international and regional organizations, universities, institutions and others,

Reaffirming also the hope that, in appointing highly qualified lecturers for the seminars to be held within the framework of the fellowship programmes in international law, account would be taken of the need to secure the representation of major legal systems and balance among various geographical regions,

1. *Reiterates its approval* of the guidelines and recommendations contained in section III of the previous report of the Secretary-General,[2] in particular those designed to strengthen and revitalize the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law in response to the increasing demand for international law training and dissemination activities;

2. *Authorizes* the Secretary-General to carry out the activities specified in his reports[3] in 2017, including the following activities to be financed from provisions in the regular budget:

(a) The International Law Fellowship Programme, with a minimum of 20 fellowships;

(b) The United Nations Regional Courses in International Law for Africa, for Asia-Pacific and for Latin America and the Caribbean, with a minimum of 20 fellowships for each course;

(c) The United Nations Audiovisual Library of International Law, including its continuation and further development;

[2] A/70/423.

[3] A/70/423 and A/71/432.

(d) The dissemination of legal publications and lectures of the Audiovisual Library to developing countries to the extent that there are sufficient resources;

3. *Also authorizes* the Secretary-General to further expand the activities referred to in paragraph 2 above, to be financed from voluntary contributions received pursuant to paragraphs 14, 24 and 25 below;

4. *Commends* the Codification Division of the Office of Legal Affairs of the Secretariat for the cost-saving measures undertaken with regard to the International Law Fellowship Programme and the United Nations Regional Courses in International Law to increase the number of fellowships for the training courses financed from provisions in the regular budget, taking into account the number of applications for these courses;

5. *Authorizes* the Secretary-General to award additional fellowships for the training courses from available resources under the programme budget for the Programme of Assistance and from voluntary contributions received pursuant to paragraph 25 below;

6. *Requests* the Secretary-General to consider admitting, for participation in the training courses, self-funded candidates present in the host country or from countries willing to bear the entire cost of their participation;

7. *Authorizes* the Secretary-General to award a minimum of one scholarship in 2017 under the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea, taking note of paragraph 8 of resolution 69/117 of 10 December 2014 and paragraph 4 of resolution 70/116 of 14 December 2015;

8. *Requests* the Secretary-General to continue to include resources under the proposed programme budget for the biennium 2018-2019 for the International Law Fellowship Programme, the United Nations Regional Courses in International Law for Africa, for Asia-Pacific and for Latin America and the Caribbean each year and for the continuation and further development of the United Nations Audiovisual Library of International Law;

9. *Expresses its appreciation* to the Secretary-General for the activities conducted under the Programme of Assistance and, in particular, for the efforts to strengthen, expand and enhance the international law training and dissemination activities within the framework of the Programme in 2016;

10. *Commends* the Secretary-General for the continuation and further development of the United Nations Audiovisual Library of International Law as a major contribution to the teaching and dissemination of international law around the world;

11. *Recognizes* the importance of the United Nations legal publications prepared by the Office of Legal Affairs, and once again requests the Secretary-General to issue the publications referred to in his previous report[4] in various formats, including hard copy publications, which are essential for developing countries;

[4] A/70/423, para. 45.

12. *Reiterates its appreciation* for the efforts that were undertaken by the Office of Legal Affairs to bring up to date the United Nations legal publications, in particular the desktop publishing initiative undertaken by the Codification Division from 2003 to 2013, which greatly enhanced the timely issuance of its legal publications and made possible the preparation of legal training materials, as noted in its resolutions 64/113 of 16 December 2009, 65/25 of 6 December 2010, 66/97 of 9 December 2011, 67/91 of 14 December 2012, 68/110 of 16 December 2013, 69/117 and 70/116;

13. *Expresses its regret once again* that none of the publications referred to in the report of the Secretary-General have been issued since 2014, when desktop publishing was discontinued owing to lack of resources, notwithstanding its resolutions 68/110, 69/117 and 70/116, and reiterates its recommendation that the necessary resources be made available to resume this successful initiative;

14. *Expresses its appreciation* for the preparation of the International Law Handbook as a valuable resource for international law education on a broad range of core subjects of international law in its training courses and for academic institutions in developing countries to promote international law education in those countries, and requests Member States to provide the voluntary contributions necessary to ensure the completion of this educational resource in English and French, as well as its dissemination in developing countries;

15. *Requests* the Office of Legal Affairs to continue to maintain and expand its websites listed in the annex to the report of the Secretary-General as an invaluable tool for the dissemination of international law materials as well as for advanced legal research;

16. *Requests* that interns and research assistants be enlisted for the preparation of materials for the United Nations Audiovisual Library of International Law as well as the International Law Handbook;

17. *Welcomes* the efforts of the Codification Division to revitalize and conduct the United Nations Regional Courses in International Law as an important training activity;

18. *Expresses its appreciation* to Ethiopia, Thailand and Uruguay for hosting the United Nations Regional Courses in International Law for Africa, for Asia-Pacific and for Latin America and the Caribbean in 2016, and also expresses its appreciation to Chile for its willingness to host the Regional Course for Latin America and the Caribbean in 2017;

19. *Expresses its appreciation* to the African Union for the valuable contribution it continues to make to the United Nations Regional Course in International Law for Africa;

20. *Expresses its appreciation* to Ghana for hosting the first International Law Seminar for African Universities in 2016 to promote capacity-building in international law education for African universities and to commemorate the fiftieth anniversary of the Programme of Assistance, and to Ethiopia for its willingness to host the second International Law Seminar for African Universities in 2017;

21. *Once again encourages* the Codification Division to cooperate with the African Institute of International Law, dedicated to offering higher learning and research in international law needed for the development of Africa, in the implementation of the relevant activities under the Programme of Assistance;

22. *Expresses its appreciation* to the Hague Academy of International Law for the valuable contribution it continues to make to the Programme of Assistance, which has enabled candidates under the International Law Fellowship Programme to attend and participate in the Fellowship Programme in conjunction with courses at the Academy;

23. *Notes with appreciation* the contributions of the Hague Academy to the teaching, study, dissemination and wider appreciation of international law, and calls upon Member States and interested organizations to give favourable consideration to the appeal of the Academy for a continuation of support and a possible increase in their financial contributions, to enable the Academy to carry out its activities, particularly those relating to the summer courses, regional courses and programmes of the Centre for Studies and Research in International Law and International Relations;

24. *Requests* the Secretary-General to continue to publicize the Programme of Assistance and periodically to invite Member States, universities, philanthropic foundations and other interested national and international institutions and organizations, as well as individuals, to make voluntary contributions towards the financing of the Programme or otherwise to assist in its implementation and possible expansion;

25. *Reiterates its request* to Member States and interested organizations, institutions and individuals to make voluntary contributions for the United Nations Audiovisual Library of International Law and for the United Nations Regional Courses in International Law organized by the Codification Division as an important complement to the International Law Fellowship Programme;

26. *Expresses its appreciation* to those Member States that have made voluntary contributions to support the Programme of Assistance;

27. *Requests* the Secretary-General to report to the General Assembly at its seventy-second session on the implementation of the Programme of Assistance in 2017 and, following consultations with the Advisory Committee on the Programme of Assistance, to submit recommendations regarding the Programme in subsequent years;

28. *Decides* to include in the provisional agenda of its seventy-second session the item entitled "United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law".

United Nations A/71/509

General Assembly

Distr.: General
11 November 2016

Original: English

Seventy-first session
Agenda item 78

Report of the International Law Commission on the work of its sixty-eighth session

Report of the Sixth Committee

Rapporteur: Mr. Isaias **Medina** (Bolivarian Republic of Venezuela)

I. Introduction

1. The item entitled "Report of the International Law Commission on the work of its sixty-eighth session" was included in the provisional agenda of the seventy-first session of the General Assembly pursuant to Assembly resolution 70/236 of 23 December 2015.

2. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 20th to 30th and 33rd meetings, from 24 to 28 October and from 1 to 3 and 11 November 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

4. For its consideration of the item, the Committee had before it the report of the International Law Commission on the work of its sixty-eighth session (A/71/10).

5. The Chair of the International Law Commission at its sixty-eighth session introduced the report of the Commission on the work of that session: chapters I to VI and XIII at the 20th meeting, on 24 October, chapters VII to IX at the 24th meeting, on 27 October, and chapters X to XII at the 27th meeting, on 1 November.

[1] A/C.6/71/SR.20, A/C.6/71/SR.21, A/C.6/71/SR.22, A/C.6/71/SR.23, A/C.6/71/SR.24, A/C.6/71/SR.25, A/C.6/71/SR.26, A/C.6/71/SR.27, A/C.6/71/SR.28, A/C.6/71/SR.29, A/C.6/71/SR.30 and A/C.6/71/SR.33.

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II. Consideration of proposals

A. Draft resolution A/C.6/71/L.26

6. At the 33rd meeting, on 11 November, the representative of Peru, on behalf of the Bureau, introduced a draft resolution entitled "Report of the International Law Commission on the work of its sixty-eighth session" (A/C.6/71/L.26).

7. At the same meeting, the Committee adopted draft resolution A/C.6/71/L.26 without a vote (see para. 11, draft resolution I).

8. After the adoption of the draft resolution, the representative of Algeria made a statement of position.

B. Draft resolution A/C.6/71/L.31

9. At the 33rd meeting, on 11 November, the representative of Slovakia, on behalf of the Bureau, introduced a draft resolution entitled "Protection of persons in the event of disasters" (A/C.6/71/L.31).

10. At the same meeting, the Committee adopted draft resolution A/C.6/71/L.31 without a vote (see para. 11, draft resolution II).

III. Recommendation of the Sixth Committee

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Report of the International Law Commission on the work of its sixty-eighth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its sixty-eighth session,[1]

Emphasizing the importance of furthering the progressive development and codification of international law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2]

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development and codification of international law,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Recalling also the role of Member States in submitting proposals for new topics for the consideration of the International Law Commission, and noting in this regard the recommendation of the Commission that such proposals be accompanied by a statement of reasons,

Reaffirming the importance for the successful work of the International Law Commission of the information provided by Member States concerning their views and practice,

Recognizing the importance of the work of the special rapporteurs of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

Acknowledging the importance of facilitating the timely publication of the *Yearbook of the International Law Commission* and of eliminating the backlog,

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[1] *Official Records of the General Assembly, Seventy-first Session, Supplement No. 10* (A/71/10).

[2] Resolution 2625 (XXV), annex.

Stressing the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

Wishing to enhance further, in the context of the revitalization of the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

Welcoming initiatives to hold interactive debates, panel discussions and question time in the Sixth Committee, as envisaged in General Assembly resolution 58/316 of 1 July 2004 on further measures for the revitalization of the work of the Assembly,

1. *Takes note* of the report of the International Law Commission on the work of its sixty-eighth session;[1]

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its sixty-eighth session, and notes in particular:

(a) The completion of the second reading of the draft articles on the protection of persons in the event of disasters with the adoption of an entire set of draft articles on the topic;[3]

(b) The completion of the first reading of the draft conclusions on identification of customary international law with the adoption of an entire set of draft conclusions on the topic;[4]

(c) The completion of the first reading of the draft conclusions on subsequent agreements and subsequent practice in relation to the interpretation of treaties with the adoption of an entire set of draft conclusions on the topic;[5]

3. *Recommends* that the International Law Commission continue its work on the topics in its current programme, taking into account the comments and observations of Governments, whether submitted in writing or expressed orally in debates in the Sixth Committee;

4. *Draws the attention* of Governments to the importance for the International Law Commission of having their views by 31 January 2017 on the various aspects of the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report, regarding:

(a) Crimes against humanity;

(b) Protection of the atmosphere;

(c) Provisional application of treaties;

(d) *Jus cogens*;

(e) Immunity of State officials from foreign criminal jurisdiction;

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[1] *See Official Records of the General Assembly, Seventy-first Session, Supplement No. 10* (A/71/10), chap. IV, sect. E.

[4] Ibid., chap. V, sect. C.

[5] Ibid., chap. VI, sect. C.

5. *Also draws the attention* of Governments to the importance for the International Law Commission of having their comments and observations by 1 January 2018 on the draft conclusions on the topics "Identification of customary international law" and "Subsequent agreements and subsequent practice in relation to the interpretation of treaties", adopted on first reading by the Commission at its sixty-eighth session;[6]

6. *Takes note* of paragraphs 306 to 313 of the report of the International Law Commission and notes, in particular, the inclusion of the topics "The settlement of international disputes to which international organizations are parties" and "Succession of States in respect of State responsibility" in the long-term programme of work of the Commission,[7] as well as the recommendation of the Commission that the potential topics identified in the memorandum by the Secretariat concerning "Possible topics for consideration taking into account the review of the list of topics established in 1996 in the light of subsequent developments"[8] be further considered by the Working Group on the Long-term Programme of Work at the sixty-ninth session of the Commission;

7. *Recalls* that the seat of the International Law Commission is at the United Nations Office at Geneva;

8. *Takes note* of the comments of the International Law Commission on the possibility of holding one half session in the next quinquennium in New York, as presented in paragraphs 323 to 326 of its report, and endorses its recommendation that the first part of the seventieth session of the Commission be held in New York, which will coincide with the commemoration of the seventieth anniversary of the Commission;

9. *Takes note with appreciation* of the recommendations of the International Law Commission, contained in paragraphs 327 to 332 of its report, that a seventieth anniversary event be held during its seventieth session, in 2018, at meetings in New York and in Geneva, that a report on those meetings be discussed at the annual meeting of the Legal Advisers in New York and that the anniversary event lead to a publication;

10. *Takes note* of paragraph 333 of the report of the International Law Commission, and requests the Secretary-General to continue his efforts to identify concrete options for support for the work of special rapporteurs, additional to those provided under General Assembly resolution 56/272 of 27 March 2002;

11. *Welcomes* the efforts of the International Law Commission to improve its methods of work,[9] and encourages the Commission to continue this practice;

12. *Invites* the International Law Commission to continue to take measures to enhance its efficiency and productivity and to consider making proposals to Member States to that end;

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[6] Ibid., paras. 60 and 73.

[7] Ibid., para. 308.

[8] A/CN.4/679/Add.1.

[9] *See Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 10* (A/66/10), paras. 370-388.

13. *Encourages* the International Law Commission to continue to take cost-saving measures at its future sessions, without prejudice to the efficiency and effectiveness of its work;

14. *Takes note* of paragraph 347 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 1 May to 2 June and from 3 July to 4 August 2017;

15. *Stresses* the desirability of further enhancing the dialogue between the International Law Commission and the Sixth Committee, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission throughout the year;

16. *Encourages* delegations, during the debate on the report of the International Law Commission, to continue to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

17. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee (International Law Week) to enable high-level discussions on issues of international law;

18. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

19. *Takes note* of paragraphs 348 to 351 of the report of the International Law Commission with regard to cooperation and interaction with other bodies, and encourages the Commission to continue the implementation of articles 16 (e), 25 and 26 of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

20. *Notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

21. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission, including in the preparation of memorandums and studies on topics on the agenda of the Commission, and takes note of the requests of the Commission for the Secretariat to prepare memorandums on the topics "Identification of customary international law" and "Provisional application of treaties" contained in paragraphs 301 and 302 of the report of the Commission;

22. *Also reaffirms* its previous decisions concerning the documentation and summary records of the International Law Commission;[10]

23. *Welcomes* the institutionalization of the practice of the Secretariat to include the provisional summary records in English and French on the website relating to the work of the International Law Commission;

24. *Also welcomes* the efforts of the Secretariat in seeking to ensure timely and efficient processing of the documents of the International Law Commission, and encourages the Secretariat to institutionalize the experimental measures taken during the sixty-eighth session of the Commission to streamline the editing of those documents;

25. *Takes note* of paragraphs 338 to 340 of the report of the International Law Commission, recalls the paramount importance of multilingualism as set forth in General Assembly resolution 69/324 of 11 September 2015 on multilingualism, underlines the importance of having the documents of the Commission published in due time in the six official languages of the United Nations, and to this end encourages special rapporteurs to submit their reports within the time limits specified by the Secretariat;

26. *Takes note* of paragraphs 334 and 335 of the report of the International Law Commission, underlines the importance of the publications of the Codification Division to the work of the Commission, and reiterates its request that the Secretary-General continue to publish the *Work of the International Law Commission* in all six official languages at the beginning of each quinquennium, the *Reports of International Arbitral Awards* in English or French and the *Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice* in all six official languages every five years;

27. *Stresses* the need to expedite the preparation of the summary records of the International Law Commission, and welcomes the continuation of the measures taken to streamline the processing of summary records during the sixty-fifth session of the Commission,[11] which have led to a more rational use of resources, and expresses its satisfaction that the summary records of the Commission, constituting *travaux préparatoires* in the progressive development and codification of international law, will not be subject to arbitrary length restrictions;

28. *Takes note* of paragraph 342 of the report of the International Law Commission, stresses the unique value of the *Yearbook of the International Law Commission*, and requests the Secretary-General to ensure its timely publication in all official languages;

29. *Expresses its appreciation* to Governments that have made voluntary contributions to the trust fund on the backlog relating to the *Yearbook of the International Law Commission*, and encourages further contributions to the trust fund;

30. *Takes note* of paragraph 343 of the report of the International Law Commission, expresses its satisfaction with the remarkable progress achieved in the

[10] See resolutions 32/151, para. 10, and 37/111, para. 5, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly.

[11] *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 10* (A/68/10), para. 183.

past few years in reducing the backlog of the *Yearbook of the International Law Commission* in all six languages, welcomes the efforts made by the Division of Conference Management of the United Nations Office at Geneva, especially its Editing Section, in effectively implementing relevant resolutions of the General Assembly calling for the reduction of the backlog, encourages that Division to provide continuous necessary support to the Editing Section in advancing the *Yearbook of the International Law Commission*, and requests that updates on progress made in this respect be provided to the Commission on a regular basis;

31. *Welcomes* the continuous efforts of the Codification Division to maintain and improve the website relating to the work of the International Law Commission;

32. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants representing the principal legal systems of the world, including in particular those from developing countries, will be given the opportunity to attend the Seminar, as well as delegates to the Sixth Committee, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations Trust Fund for the International Law Seminar;

33. *Requests* the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue to consider ways to improve the structure and content of the Seminar;

34. *Underlines* the importance of the records and topical summary of the debate in the Sixth Committee for the deliberations of the International Law Commission, and in this regard requests the Secretary-General to forward to the Commission, for its attention, the records of the debate on the report of the Commission at the seventy-first session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

35. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to the Commission and the draft articles adopted on either first or second reading by the Commission;

36. *Also requests* the Secretariat to make the complete report of the International Law Commission available as soon as possible after the conclusion of the session of the Commission for the consideration of Member States with due anticipation and no later than the prescribed time limit for reports in the General Assembly;

37. *Encourages* the International Law Commission to continue to consider ways in which specific issues on which the views of Governments would be of particular interest to the Commission could be framed so as to help Governments to have a better appreciation of the issues on which responses are required;

38. *Recommends* that the debate on the report of the International Law Commission at the seventy-second session of the General Assembly commence on 23 October 2017.

Draft resolution II
Protection of persons in the event of disasters

The General Assembly,

Having considered chapter IV of the report of the International Law Commission on the work of its sixty-eighth session,[1] which contains the draft articles on the protection of persons in the event of disasters,[2]

Noting that the Commission decided to recommend to the General Assembly the elaboration of a convention on the basis of the draft articles,[3]

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (a), of the Charter of the United Nations,

Noting that the subject of the protection of persons in the event of disasters is of major importance in the relations of States,

Taking into account views and comments expressed in the Sixth Committee on chapter IV, on the protection of persons in the event of disasters, of the report of the Commission,

1. *Expresses its appreciation* to the International Law Commission for its continuing contribution to the codification and progressive development of international law;

2. *Takes note* of the draft articles on the protection of persons in the event of disasters, presented by the Commission,[2] and invites Governments to submit comments concerning the recommendation by the Commission to elaborate a convention on the basis of these articles;[3]

3. *Decides* to include in the provisional agenda of its seventy-third session an item entitled "Protection of persons in the event of disasters".

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[1] *Official Records of the General Assembly, Seventy-first Session, Supplement No. 10* (A/71/10).
[2] Ibid., para. 48.
[3] Ibid., para. 46.

United Nations A/71/510

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Seventy-first session
Agenda item 79

Diplomatic protection

Report of the Sixth Committee

Rapporteur: Mr. Isaias Arturo **Medina Mejías** (Bolivarian Republic of Venezuela)

I. Introduction

1. The item entitled "Diplomatic protection" was included in the provisional agenda of the seventy-first session of the General Assembly pursuant to Assembly resolution 68/113 of 16 December 2013.

2. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 9th, 10th, 31st and 32nd meetings, on 7 and 10 October and on 4 and 7 November 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

4. For its consideration of the item, the Committee had before it the report of the Secretary-General on comments and information received from Governments[2] on the recommendation of the International Law Commission that the General Assembly elaborate a convention on the basis of the draft articles on diplomatic protection adopted by the Commission at its fifty-eighth session, in 2006.[3]

5. Pursuant to resolution 68/113, the Committee decided, at its 1st meeting, on 3 October 2016, to establish a Working Group on Diplomatic Protection, in order to fulfil the mandate conferred by the General Assembly on the Committee, namely, to further examine, in the light of the written comments of Governments as well as

[1] A/C.6/71/SR.9, A/C.6/71/SR.10, A/C.6/71/SR.31 and A/C.6/71/SR.32.
[2] A/71/93 and Corr.1.
[3] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 10* (A/61/10), para. 46.

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views expressed in the debates held at the sixty-second, sixty-fifth and sixty-eighth sessions of the Assembly, the question of a convention on diplomatic protection, or any other appropriate action, on the basis of the articles drafted by the International Law Commission and also to identify any difference of opinion on the articles. At the same meeting, the Committee decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. The Working Group, which was chaired by Thembile Joyini (South Africa), held two meetings, on 17 and 19 October 2016.

6. At its 31st meeting, on 4 November 2016, the Committee heard and took note of the oral report of the Chair of the Working Group (see A/C.6/71/SR.31).

II. Consideration of draft resolution A/C.6/71/L.14

7. At the 31st meeting, on 4 November 2016, the representative of South Africa, on behalf of the Bureau, introduced a draft resolution entitled "Diplomatic protection" (A/C.6/71/L.14).

8. At the 32nd meeting, on 7 November 2016, the Committee adopted draft resolution A/C.6/71/L.14 without a vote (see para. 9).

III. Recommendation of the Sixth Committee

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Recalling its resolution 62/67 of 6 December 2007, the annex to which contains the text of the articles on diplomatic protection, commending the articles to the attention of Governments,

Recalling also that the International Law Commission decided to recommend to the General Assembly the elaboration of a convention on the basis of the articles on diplomatic protection,[1]

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (a), of the Charter of the United Nations,

Noting that the subject of diplomatic protection is of major importance in relations between States,

Taking into account the comments and observations of Governments[2] and the discussions held in the Sixth Committee, at the sixty-second, sixty-fifth, sixty-eighth and seventy-first sessions of the General Assembly, on diplomatic protection,

1. *Commends once again* the articles on diplomatic protection[3] to the attention of Governments, and invites them to submit in writing to the Secretary-General any further comments, including comments concerning the recommendation by the International Law Commission to elaborate a convention on the basis of the articles;[1]

2. *Decides* to include in the provisional agenda of its seventy-fourth session the item entitled "Diplomatic protection" and, within the framework of a working group of the Sixth Committee, in the light of the written comments of Governments, as well as views expressed in the debates held at the sixty-second, sixty-fifth, sixty-eighth and seventy-first sessions of the General Assembly, to continue to examine the question of a convention on diplomatic protection, or any other appropriate action, on the basis of the above-mentioned articles and to also identify any difference of opinion on the articles.

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[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 10* (A/61/10), para. 46.

[2] See A/62/118 and Add.1, A/65/182 and Add.1, A/68/115 and Add.1 and A/71/93 and Corr.1.

[3] Resolution 62/67, annex.

United Nations A/71/511

General Assembly

Distr.: General
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Seventy-first session
Agenda item 80

Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm

Report of the Sixth Committee

Rapporteur: Mr. Isaias **Medina** (Bolivarian Republic of Venezuela)

I. Introduction

1. The item entitled "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm" was included in the provisional agenda of the seventy-first session of the General Assembly pursuant to Assembly resolution 68/114 of 16 December 2013.

2. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 18th, 31st and 32nd meetings, on 20 October and on 4 and 7 November 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

4. For its consideration of the item, the Committee had before it the reports of the Secretary-General (A/71/98, A/71/136 and A/71/136/Add.1).

[1] A/C.6/71/SR.18, A/C.6/71/SR.31 and A/C.6/71/SR.32.

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II. Consideration of draft resolution A/C.6/71/L.20

5. At the 31st meeting, on 4 November, the representative of Czechia, on behalf of the Bureau, introduced a draft resolution entitled "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm" (A/C.6/71/L.20).

6. At its 32nd meeting, on 7 November, the Committee adopted draft resolution A/C.6/71/L.20 without a vote (see para. 7).

III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm

The General Assembly,

Recalling its resolutions 56/82 of 12 December 2001, 61/36 of 4 December 2006, the annex to which contains the text of the principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities, and 62/68 of 6 December 2007, the annex to which contains the text of the articles on prevention of transboundary harm from hazardous activities, as well as 65/28 of 6 December 2010 and 68/114 of 16 December 2013,

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (*a*), of the Charter of the United Nations,

Noting that the questions of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm are of major importance in relations between States,

Taking into account the views and comments expressed in the Sixth Committee at previous sessions and at the current session of the General Assembly,[1]

1. *Commends once again* the articles on prevention of transboundary harm from hazardous activities, the text of which is annexed to General Assembly resolution 62/68, to the attention of Governments, without prejudice to any future action, as recommended by the International Law Commission regarding the articles;

2. *Also commends once again* the principles on the allocation of loss in the case of transboundary harm arising out of hazardous activities, the text of which is annexed to General Assembly resolution 61/36, to the attention of Governments, without prejudice to any future action, as recommended by the Commission regarding the principles;

3. *Invites* Governments to submit further comments on any future action, in particular on the form of the respective articles and principles, bearing in mind the recommendations made by the Commission in that regard, including in relation to the elaboration of a convention on the basis of the articles, as well as on any practice in relation to the application of the articles and principles;

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[1] See A/C.6/56/SR.11-13, 15-19, 22 and 23; A/C.6/61/SR.9-12, 14 and 21; A/C.6/62/SR.12 and 28; A/C.6/65/SR.17 and 27; A/C.6/68/SR.16, 28 and 29; and A/C.6/71/18. See also the reports of the Secretary-General containing comments and observations received from Governments (A/65/184 and Add.1; A/68/170; and A/71/136 and Add.1) and the reports of the Secretary-General containing a compilation of decisions of international courts, tribunals and other bodies (A/68/94 and A/71/98).

4. *Requests* the Secretary-General to submit a compilation of decisions of international courts, tribunals and other bodies referring to the articles and the principles;

5. *Decides* to include in the provisional agenda of its seventy-fourth session the item entitled "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm".

United Nations A/71/512

General Assembly

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Seventy-first session
Agenda item 81

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Report of the Sixth Committee

Rapporteur: Mr. Isaias **Medina** (Bolivarian Republic of Venezuela)

I. Introduction

1. The item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" was included in the provisional agenda of the seventy-first session of the General Assembly in accordance with Assembly resolution 69/120 of 10 December 2014.

2. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 10th, 11th and 33rd meetings, on 10 October and on 11 November 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/71/183 and Add.1).

II. Consideration of draft resolution A/C.6/71/L.21

5. At the 33rd meeting, on 11 November, the representative of Sweden, on behalf of Algeria, Argentina, Australia, Austria, Belgium, Canada, Czechia, Denmark, Estonia, Finland, Germany, Greece, Iceland, Ireland, Japan, Latvia, Lebanon,

[1] A/C.6/71/SR.10, A/C.6/71/SR.11 and A/C.6/71/SR.33.

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Liechtenstein, Luxembourg, Mauritius, Monaco, the Netherlands, New Zealand, Norway, Poland, the Republic of Moldova, Romania, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the State of Palestine, subsequently joined by France, Ghana, Italy and Lithuania, introduced a draft resolution entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" (A/C.6/71/L.21).

6. At the same meeting, the representative of the Sudan made a statement in explanation of position before action on the draft resolution.

7. Also at the same meeting, the Committee adopted draft resolution A/C.6/71/L.21 without a vote (see para. 8).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its biennial resolutions on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts, including its resolution 69/120 of 10 December 2014,

Having considered the report of the Secretary-General,[1]

Reaffirming the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the need to consolidate the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions of 1949[2] and the Additional Protocols,[3]

Calling upon Member States to disseminate knowledge of international humanitarian law as widely as possible, and calling upon all parties to armed conflict to apply international humanitarian law,

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meetings of representatives of those bodies organized by the International Committee of the Red Cross, together with relevant partners such as national Red Cross and Red Crescent societies, to facilitate the sharing of concrete experience and the exchange of views on their roles and on the challenges they face,

Stressing the possibility of making use of the International Humanitarian Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I[4] to the Geneva Conventions,

Stressing also the possibility for the International Humanitarian Fact-Finding Commission to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and Protocol I,

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[1] A/71/183 and Add.1.

[2] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

[3] Ibid., vol. 1125, Nos. 17512 and 17513, and vol. 2404, No. 43425.

[4] Ibid., vol. 1125, No. 17512.

Taking note of the fact that, in paragraphs 8 and 9 of its resolution 1894 (2009) of 11 November 2009 on the protection of civilians in armed conflict, the Security Council noted the range of existing methods used, on a case-by-case basis, for gathering information on alleged violations of applicable international law relating to the protection of civilians, underlined the importance in that regard of receiving information that is timely, objective, accurate and reliable, and considered the possibility, to that end, of using the International Humanitarian Fact-Finding Commission established by article 90 of Protocol I,

Noting with appreciation the role of the International Committee of the Red Cross in facilitating and offering protection to the victims of armed conflicts,

Noting with appreciation also the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the Additional Protocols,

Noting the special responsibilities of national Red Cross and Red Crescent societies, as auxiliaries to the public authorities of their respective States in the humanitarian field, to cooperate with and assist their Governments in the promotion, dissemination and implementation of international humanitarian law,

Welcoming the universal acceptance of the Geneva Conventions of 1949,

Recalling the imperative need to improve compliance with international humanitarian law, recognized by all States at the Thirty-second International Conference of the Red Cross and Red Crescent, held in Geneva from 8 to 10 December 2015,

Welcoming the continued engagement of States in the intergovernmental process, and recalling its State-driven and consensus-based character, aimed at finding ways to enhance the implementation of international humanitarian law,

Noting the close cooperation between the International Committee of the Red Cross and States to further strengthen international humanitarian law protecting persons deprived of their liberty in relation to armed conflict,

Noting also the work undertaken by the International Committee of the Red Cross in relation to sexual violence in armed conflict,

Noting further the work undertaken by States, the International Red Cross and Red Crescent Movement and other actors in the Health Care in Danger project to improve the protection of the provision of and access to health care,

Calling upon all parties to armed conflict to respect and protect the wounded and sick, as well as health-care personnel, humanitarian personnel exclusively engaged in medical duties, and their means of transport and equipment, as well as hospitals and other medical facilities, in armed conflict, in accordance with their obligations under international humanitarian law,

Noting the serious concern expressed by States regarding the humanitarian impact caused by cluster munitions, and noting the entry into force of the Convention on Cluster Munitions[5] on 1 August 2010,

Noting also the entry into force of the Arms Trade Treaty[6] on 24 December 2014,

Welcoming the important contribution to the protection of victims of armed conflicts made by the significant debate generated by the publication in 2005 of the study by the International Committee of the Red Cross on customary international humanitarian law, as well as other recent initiatives by the Committee, welcoming also its efforts to update regularly its customary international humanitarian law database, and looking forward to further constructive discussion on the subject,

Acknowledging the fact that the Rome Statute of the International Criminal Court[7] covers the most serious crimes of international concern under international humanitarian law and that the Rome Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Noting the amendments to article 8 of the Rome Statute of the International Criminal Court, relating to war crimes under the Rome Statute, adopted on 10 June 2010 at the Review Conference of the Rome Statute, held in Kampala from 31 May to 11 June 2010,

Acknowledging the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

1. *Welcomes* the universal acceptance of the Geneva Conventions of 1949,[2] and notes the trend towards a similarly wide acceptance of the two Additional Protocols of 1977 in the context of their upcoming fortieth anniversary;[8]

2. *Calls upon* all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the Additional Protocols[3] at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I,[4] or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol and to consider making use, where appropriate, of the services of the International Humanitarian Fact-Finding Commission in accordance with the provisions of article 90 of Protocol I;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict and the two Protocols thereto[9] and to other relevant treaties on

[5] Ibid., vol. 2688, No. 47713.
[6] See resolution 67/234 B.
[7] United Nations, *Treaty Series*, vol. 2187, No. 38544.
[8] Ibid., vol. 1125, Nos. 17512 and 17513.
[9] Ibid., vol. 249, No. 3511, and vol. 2253, No. 3511.

international humanitarian law relating to the protection of victims of armed conflict;[10]

5. *Calls upon* States to consider becoming parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

6. *Calls upon* all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective, and supports its further strengthening and development;

8. *Notes with appreciation* the 10 resolutions adopted at the Thirty-second International Conference of the Red Cross and Red Crescent, held in Geneva from 8 to 10 December 2015, in particular resolutions 1 to 4, recalls their importance, as well as the recommendations for further actions therein, in strengthening international humanitarian law, and notes with appreciation in this regard resolution 2, entitled "Strengthening compliance with international humanitarian law", in which the Conference, inter alia, recommended the continuation of an inclusive, State-driven intergovernmental process based on the principle of consensus and in line with the guiding principles of the consultation process to find agreement on features and functions of a potential forum of States and to find ways to enhance the implementation of international humanitarian law;

9. *Welcomes* the activities of the Advisory Service on International Humanitarian Law of the International Committee of the Red Cross in supporting efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments, and reminds Member States of the availability of the manual on domestic implementation of international humanitarian law;

10. *Also welcomes* the increasing number of national commissions or committees for the implementation of international humanitarian law and their work in promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law, and encourages Member States that have not yet done so to consider establishing national commissions or committees with the support of national Red Cross and Red Crescent societies where relevant, to advise and assist Governments in implementing and disseminating knowledge of international humanitarian law;

11. *Requests* the Secretary-General to submit to the General Assembly at its seventy-third session a comprehensive report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

[10] Ibid., vol. 2173, No. 27531.

12. *Encourages* Member States and the International Committee of the Red Cross, in transmitting information to the Secretary-General, to focus on new developments and activities during the reporting period;

13. *Encourages* Member States to explore ways of facilitating the submission of information for future reports of the Secretary-General and, in this context, to consider the convenience of using a questionnaire as drafted by Member States, with the assistance of the International Committee of the Red Cross and, as appropriate, in consultation with the Secretariat, for submission to the General Assembly at its seventy-third session;

14. *Decides* to include in the provisional agenda of its seventy-third session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

United Nations A/71/513

General Assembly

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Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

Report of the Sixth Committee

Rapporteur: Mr. Isaias **Medina** (Bolivarian Republic of Venezuela)

I. Introduction

1. The item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives" was included in the provisional agenda of the seventy-first session of the General Assembly pursuant to Assembly resolution 69/121 of 10 December 2014.

2. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 11th, 30th and 32nd meetings, on 10 October and on 3 and 7 November 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/71/130 and Add.1).

II. Consideration of draft resolution A/C.6/71/L.18

5. At the 30th meeting, on 3 November, the representative of Finland, on behalf of Algeria, Australia, Austria, Belgium, Brazil, Canada, Croatia, Cyprus, Czechia,

[1] A/C.6/71/SR.11, A/C.6/71/SR.30 and A/C.6/71/SR.32.

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Denmark, Estonia, Finland, France, Gabon, Germany, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, the Netherlands, New Zealand, Norway, Poland, Portugal, the Republic of Moldova, Slovakia, Sweden, Switzerland, Turkey and the United Kingdom of Great Britain and Northern Ireland, subsequently joined by Greece and Hungary, introduced a draft resolution entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives" (A/C.6/71/L.18).

6. At its 32nd meeting, on 7 November, the Committee adopted draft resolution A/C.6/71/L.18 without a vote (see para. 7).

III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

The General Assembly,

Having considered the report of the Secretary-General,[1]

Conscious of the need to develop and strengthen friendly relations and cooperation among States,

Convinced that respect for the principles and rules of international law governing diplomatic and consular relations is a basic prerequisite for the normal conduct of relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations,

Alarmed by the new and recurring acts of violence against diplomatic and consular representatives, as well as against representatives to international intergovernmental organizations and officials of such organizations, which endanger or take innocent lives and seriously impede the normal work of such representatives and officials,

Expressing sympathy for the victims of such illegal acts,

Noting that diplomatic and consular missions may maintain archives and documents in various forms, that official correspondence may take a variety of forms and that diplomatic and consular missions may use a variety of means of communication,

Recalling that the archives and documents of diplomatic and consular missions shall be inviolable at any time and wherever they may be and that the official correspondence of diplomatic and consular missions shall be inviolable,

Recalling also that States shall permit and protect free communication of diplomatic and consular missions for all official purposes and that diplomatic and consular missions may employ all appropriate means in communicating with their Governments and other diplomatic and consular missions of their State, wherever situated,

Concerned at the failure to respect the inviolability of diplomatic and consular missions and representatives,

Recalling that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State,

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[1] A/71/130 and Add.1.

Recalling also that diplomatic and consular premises must not be used in any manner incompatible with the functions of diplomatic and consular missions,

Emphasizing the duty of States to take all appropriate measures, as required by international law, in a timely manner, for the protection of diplomatic and consular missions and representatives as well as missions and representatives to international intergovernmental organizations and officials of such organizations, including measures of a preventive nature, and to bring offenders to justice,

Welcoming measures already taken by States to this end in conformity with their international obligations,

Convinced that the role of the United Nations, which includes the reporting procedures established pursuant to General Assembly resolution 35/168 of 15 December 1980 and further elaborated in subsequent Assembly resolutions, is important in promoting efforts to enhance the protection, security and safety of diplomatic and consular missions and representatives,

1. *Welcomes* the report of the Secretary-General;[1]

2. *Strongly condemns* all acts of violence against diplomatic and consular missions and representatives, as well as against missions and representatives to international intergovernmental organizations and officials of such organizations, and emphasizes that such acts can never be justified;

3. *Urges* States to strictly observe, implement and enforce, including during a period of armed conflict, all the applicable principles and rules of international law governing diplomatic and consular relations, including those relating to inviolability, and, in particular, to ensure, in conformity with their international obligations, the protection, security and safety of the missions, representatives and officials mentioned in paragraph 2 above officially present in territories under their jurisdiction, including practical measures to prevent and prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts against the security and safety of such missions, representatives and officials;

4. *Also urges* States to take all appropriate measures at the national and international levels to prevent any acts of violence against the missions, representatives and officials mentioned in paragraph 2 above, including during a period of armed conflict, and to ensure, with the participation of the United Nations where appropriate, that such acts are fully investigated with a view to bringing offenders to justice;

5. *Recommends* that States cooperate closely through, inter alia, contacts between the diplomatic and consular missions and the receiving State with regard to practical measures designed to enhance the protection, security and safety of diplomatic and consular missions and representatives, including measures of a preventive nature, and with regard to the timely exchange of information on the circumstances of all serious violations thereof;

6. *Urges* States to take all appropriate measures, in accordance with international law, at the national and international levels, to prevent any abuse of diplomatic or consular privileges and immunities, in particular serious abuses, including those involving acts of violence;

7. *Recommends* that States cooperate closely with the State in whose territory abuses of diplomatic and consular privileges and immunities may have occurred, including by exchanging information and providing assistance to its juridical authorities in order to bring offenders to justice;

8. *Calls upon* States that have not yet done so to consider becoming parties to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives;

9. *Calls upon* States, in cases where a dispute arises in connection with a violation of their international obligations concerning the protection of the missions or the security of the representatives and officials mentioned in paragraph 2 above, to make use of the means available for peaceful settlement of disputes, including the good offices of the Secretary-General, and requests the Secretary-General, when he deems it appropriate, to offer his good offices to the States directly concerned;

10. *Urges*:

(a) All States to report to the Secretary-General, in a concise and expeditious manner and in accordance with the guidelines prepared by the Secretary-General,[2] serious violations of the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;

(b) The State in which the violation took place — and, to the extent possible, the State where the alleged offender is present — to report to the Secretary-General, in a concise and expeditious manner and in accordance with the guidelines prepared by the Secretary-General, on measures taken to bring the offender to justice and to communicate, in accordance with its laws, the final outcome of the proceedings against the offender, and to report on measures adopted with a view to preventing a repetition of such violations;

11. *Requests* the Secretary-General:

(a) To send, without delay, a circular note to all States reminding them of the request contained in paragraph 10 above;

(b) To circulate to all States, upon receipt, the reports received by him pursuant to paragraph 10 above, unless the reporting State requests otherwise;

(c) To draw the attention, when appropriate, of the States directly concerned to the reporting procedures provided for in paragraph 10 above, when a serious violation has been reported pursuant to paragraph 10 (a) above;

(d) To address reminders to States where such violations have occurred if reports pursuant to paragraph 10 (a) above or follow-up reports pursuant to paragraph 10 (b) above have not been made within a reasonable period of time;

12. *Also requests* the Secretary-General to invite States, in the circular note referred to in paragraph 11 (a) above, to inform him of their views with respect to any measures needed or already taken to enhance the protection, security and safety of diplomatic and consular missions and representatives as well as missions and

[2] A/42/485, annex.

representatives with diplomatic status to international intergovernmental organizations;

13. *Further requests* the Secretary-General to submit to the General Assembly at its seventy-third session a report containing:

(a) Information on the state of ratification of and accessions to the instruments referred to in paragraph 8 above;

(b) A summary of the reports received and views expressed pursuant to paragraphs 10 and 12 above;

14. *Invites* the Secretary-General to include in his report to the General Assembly any views he may wish to express on the matters referred to in paragraph 13 above;

15. *Decides* to include in the provisional agenda of its seventy-third session the item entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives".

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General Assembly

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Seventy-first session
Agenda item 83

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Report of the Sixth Committee

Rapporteur: Mr. Isaias **Medina** (Bolivarian Republic of Venezuela)

I. Introduction

1. The item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" was included in the provisional agenda of the seventy-first session of the General Assembly pursuant to Assembly resolution 70/117 of 14 December 2015.

2. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 15th, 16th, 30th, 32nd and 33rd meetings, on 14 October and on 3, 7 and 11 November 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (A/71/33);

(b) Report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions (A/71/166);

[1] A/C.6/71/SR.15, A/C.6/71/SR.16, A/C.6/71/SR.30, A/C.6/71/SR.32 and A/C.6/71/SR.33.

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(c) Report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/71/202).

5. At the 15th meeting, on 14 October, the Chair of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization introduced the report of the Special Committee.

6. At the same meeting, the Director of the Codification Division of the Office of Legal Affairs made a statement on the status of the *Repertory of Practice of United Nations Organs*, and the Officer in Charge of the Security Council Practices and Charter Research Branch of the Department of Political Affairs made a statement on the status of the *Repertoire of the Practice of the Security Council*.

II. Consideration of proposals

A. Draft resolution A/C.6/71/L.15

7. At the 33rd meeting, on 11 November, the representative of Zambia, on behalf of the Bureau, introduced a draft resolution entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" (A/C.6/71/L.15).

8. At the same meeting, the Committee adopted draft resolution A/C.6/71/L.15 without a vote (see para. 11, draft resolution I).

B. Draft resolution A/C.6/71/L.16

9. At the 30th meeting, on 3 November, the representative of Zambia, on behalf of the Bureau, introduced a draft resolution entitled "Commemoration of the seventieth anniversary of the International Court of Justice" (A/C.6/71/L.16).

10. At its 32nd meeting, on 7 November, the Committee adopted draft resolution A/C.6/71/L.16 without a vote (see para. 11, draft resolution II).

III. Recommendation of the Sixth Committee

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council,[1]

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolution 51/241 of 31 July 1997 on the strengthening of the United Nations system and its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations, which are annexed to that resolution,

Concerned about the special economic problems confronting certain States arising from the carrying-out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter to join in affording mutual assistance in carrying out the measures decided upon by the Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recalling also that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Mindful of the adoption of the revised working papers on the working methods of the Special Committee,[2]

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[1] *Official Records of the General Assembly, Sixty-third Session, Supplement No. 47* (A/63/47).

Taking note of the report of the Secretary-General entitled "*Repertory of Practice of United Nations Organs* and *Repertoire of the Practice of the Security Council*",[3]

Recalling paragraphs 106 to 110, 176 and 177 of the 2005 World Summit Outcome,[4]

Mindful of the decision of the Special Committee in which it expressed its readiness to engage, as appropriate, in the implementation of any decisions that might be taken at the high-level plenary meeting of the sixtieth session of the General Assembly in September 2005 that concerned the Charter and any amendments thereto,[5]

Recalling the provisions of its resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997, 53/107 of 8 December 1998, 54/107 of 9 December 1999, 55/157 of 12 December 2000, 56/87 of 12 December 2001, 57/25 of 19 November 2002, 58/80 of 9 December 2003 and 59/45 of 2 December 2004,

Recalling also its resolution 64/115 of 16 December 2009 and the document entitled "Introduction and implementation of sanctions imposed by the United Nations" annexed thereto,

Having considered the report of the Special Committee on the work of its session held in 2016,[6]

Noting with appreciation the work done by the Special Committee to encourage States to focus on the need to prevent and to settle peacefully their disputes which are likely to endanger the maintenance of international peace and security,

1. *Takes note* of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[6]

2. *Decides* that the Special Committee shall hold its next session from 21 February to 1 March 2017;

3. *Requests* the Special Committee, at its session in 2017, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(a) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 2017, including strengthening the relationship and cooperation between the United Nations and regional organizations or arrangements in the peaceful settlement of disputes;

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[2] Ibid., *Sixty-first Session, Supplement No. 33* (A/61/33), para. 72.
[3] A/71/202.
[4] Resolution 60/1.
[5] *Official Records of the General Assembly, Sixtieth Session, Supplement No. 33* (A/60/33), para. 77.
[6] Ibid., *Seventy-first Session, Supplement No. 33* (A/71/33).

(b) To keep on its agenda the question of the peaceful settlement of disputes between States;

(c) To consider, as appropriate, any proposal referred to it by the General Assembly in the implementation of the decisions of the high-level plenary meeting of the sixtieth session of the General Assembly in September 2005 that concern the Charter and any amendments thereto;

(d) To continue to consider, on a priority basis, ways and means of improving its working methods and enhancing its efficiency and utilization of resources with a view to identifying widely acceptable measures for future implementation;

4. *Endorses* the decisions and recommendations adopted by the Special Committee at its 2016 session, as annexed to the present resolution, and calls upon the Special Committee to consider these in an appropriate, substantive manner and framework;

5. *Invites* the Special Committee, at its session in 2017, to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations;

6. *Notes* the readiness of the Special Committee to provide, within its mandate, such assistance as may be sought at the request of other subsidiary bodies of the General Assembly in relation to any issues before them;

7. *Requests* the Special Committee to submit a report on its work to the General Assembly at its seventy-second session;

8. *Recognizes* the important role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States and the value of its work, as well as the importance of having recourse to the Court in the peaceful settlement of disputes, notes that, consistent with Article 96 of the Charter, the Court's advisory jurisdiction may be requested by the General Assembly, the Security Council or other authorized organs of the United Nations and the specialized agencies, and requests the Secretary-General to distribute, in due course, the advisory opinions requested by the principal organs of the United Nations as official documents of the United Nations;

9. *Commends* the Secretary-General for the progress made in the preparation of studies for the *Repertory of Practice of United Nations Organs*, including the increased use of the internship programme of the United Nations and further expanded cooperation with academic institutions for this purpose, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*;

10. *Notes with appreciation* the contributions made by Member States to the trust fund for the elimination of the backlog in the *Repertory*, as well as the trust fund for the updating of the *Repertoire*;

11. *Reiterates its call for* voluntary contributions to the trust fund for the elimination of the backlog in the *Repertory* so as to further support the Secretariat in carrying out the effective elimination of that backlog; voluntary contributions to the trust fund for the updating of the *Repertoire*; and the sponsoring, on a voluntary

basis and with no cost to the United Nations, of associate experts to assist in the updating of the two publications;

12. *Calls upon* the Secretary-General to continue his efforts towards updating the two publications and making them available electronically in all their respective language versions, and welcomes the establishment of a new website for the *Repertory*;[7]

13. *Notes with concern* that the backlog in the preparation of volume III of the *Repertory*, although slightly reduced, has not been eliminated, and calls upon the Secretary-General to address that issue effectively and on a priority basis, while commending the Secretary-General for progress made in reducing the backlog;

14. *Reiterates* the responsibility of the Secretary-General for the quality of the *Repertory* and the *Repertoire*, and with regard to the *Repertoire* calls upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report dated 18 September 1952;[8]

15. *Requests* the Secretary-General to submit to the General Assembly at its seventy-second session a report on both the *Repertory* and the *Repertoire*;

16. *Also requests* the Secretary-General to submit to the General Assembly at its seventy-second session, under the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization", a report on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions;

17. *Decides* to include in the provisional agenda of its seventy-second session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

Annex

The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

1. *Calls upon* the Member States to hold intersessional informal meetings with the aim of finalizing the proposal of the Movement of Non-Aligned Countries entitled "Proposal of the Non-Aligned Movement on the pacific settlement of disputes and its impact on the maintenance of peace"[9] and the proposal submitted by Ghana entitled "Working paper by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes",[10] and calls upon all the Member States to constructively engage on those proposals with a view to making substantive progress at the next session of the Special Committee;

2. *Recommends* that the question of the implementation of the provisions of the Charter of the United Nations relating to assistance to third States affected by

[7] http://legal.un.org/repertory.

[8] A/2170.

[9] *Official Records of the General Assembly, Seventieth Session, Supplement No. 33* (A/70/33), annex I.

[10] Ibid., *Seventy-first Session, Supplement No. 33* (A/71/33), annex.

the application of sanctions (Article 50 of the Charter) be considered by the Special Committee at the seventy-second session of the General Assembly and biennially thereafter, and recommends that the Secretary-General be requested to submit to the Assembly a report on the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions at the seventy-second session and biennially thereafter;

3. *Also recommends* that the Secretary-General be requested to brief the Special Committee annually, commencing at its 2017 session, on the document entitled "Introduction and implementation of sanctions imposed by the United Nations" contained in the annex to General Assembly resolution 64/115 of 16 December 2009;

4. *Requests* the Chair of the Special Committee to send a letter to the President of the General Assembly recalling the seventieth anniversary of the International Court of Justice and welcoming the events planned to commemorate the occasion;

5. *Recommends* that the General Assembly mark the seventieth anniversary of the International Court of Justice by means of the commemorative draft resolution, recommended by the Special Committee,[11] to be adopted at its seventy-first session.

[11] Ibid., para. 92.

Draft resolution II
Commemoration of the seventieth anniversary of the International Court of Justice

The General Assembly,

Mindful that, in accordance with Article 2, paragraph 3, of the Charter of the United Nations, all Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered,

Bearing in mind the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations[1] and the Manila Declaration on the Peaceful Settlement of International Disputes,[2]

Recognizing the need for universal adherence to and implementation of the rule of law at both the national and international levels,

Recalling that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Noting that 2016 marks the seventieth anniversary of the inaugural sitting of the Court,

Noting with appreciation the special commemorative event held at The Hague in April 2016 to celebrate the anniversary,

1. *Solemnly commends* the International Court of Justice for the important role that it has played as the principal judicial organ of the United Nations over the past 70 years in adjudicating disputes among States, and recognizes the value of its work;

2. *Expresses its appreciation* to the Court for the measures adopted to operate an increased workload with maximum efficiency;

3. *Stresses* the desirability of finding practical ways and means to strengthen the Court, taking into consideration, in particular, the needs resulting from its workload;

4. *Encourages* States to continue considering recourse to the Court by means available under its Statute, and calls upon States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute;

5. *Calls upon* States to consider means of strengthening the Court's work, including by supporting the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice on a voluntary basis, in order to enable the Fund to carry on and to strengthen its support to the countries which submit their disputes to the Court;

6. *Stresses* the importance of promoting the work of the Court, and urges that efforts be continued through available means to encourage public awareness in the teaching, study and wider dissemination of the activities of the Court in the peaceful settlement of disputes, in view of both its judiciary and advisory functions.

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[1] Resolution 2625 (XXV), annex.
[2] Resolution 37/10, annex.

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The rule of law at the national and international levels

Report of the Sixth Committee

Rapporteur: Mr. Isaias **Medina** (Bolivarian Republic of Venezuela)

I. Introduction

1. The item entitled "The rule of law at the national and international levels" was included in the provisional agenda of the seventy-first session of the General Assembly pursuant to Assembly resolution 70/118 of 14 December 2015.

2. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 4th, 5th, 6th, 7th, 8th and 33rd meetings, on 5, 6 and 7 October and on 11 November 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

4. For its consideration of the item, the Committee had before it the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities (A/71/169).

II. Consideration of draft resolution A/C.6/71/L.27

5. At the 33rd meeting, on 11 November, the representative of Liechtenstein, on behalf of the Bureau, introduced a draft resolution entitled "The rule of law at the national and international levels" (A/C.6/71/L.27).

6. At the same meeting, the Committee adopted draft resolution A/C.6/71/L.27 without a vote (see para. 7).

[1] A/C.6/71/SR.4, A/C.6/71/SR.5, A/C.6/71/SR.6, A/C.6/71/SR.7, A/C.6/71/SR.8 and A/C.6/71/SR.33.

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III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

The rule of law at the national and international levels

The General Assembly,

Recalling its resolution 70/118 of 14 December 2015,

Reaffirming its commitment to the purposes and principles of the Charter of the United Nations and international law, which are indispensable foundations of a more peaceful, prosperous and just world, and reiterating its determination to foster strict respect for them and to establish a just and lasting peace all over the world,

Reaffirming that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations,

Reaffirming also the need for universal adherence to and implementation of the rule of law at both the national and international levels and its solemn commitment to an international order based on the rule of law and international law, which, together with the principles of justice, is essential for peaceful coexistence and cooperation among States,

Bearing in mind that the activities of the United Nations carried out in support of efforts of Governments to promote and consolidate the rule of law are undertaken in accordance with the Charter, and stressing the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through enhanced technical assistance and capacity-building,

Convinced that the advancement of the rule of law at the national and international levels is essential for the realization of sustained economic growth, sustainable development, the eradication of poverty and hunger and the protection of all human rights and fundamental freedoms, and acknowledging that collective security depends on effective cooperation, in accordance with the Charter and international law, against transnational threats,

Reaffirming the duty of all States to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations and to settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered, in accordance with Chapter VI of the Charter, and calling upon States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute,

Convinced that the promotion of and respect for the rule of law at the national and international levels, as well as justice and good governance, should guide the activities of the United Nations and its Member States,

Recalling paragraph 134 (e) of the 2005 World Summit Outcome,[1]

1. *Recalls* the high-level meeting of the General Assembly on the rule of law at the national and international levels, held during the high-level segment of its sixty-seventh session, and the declaration adopted at that meeting,[2] takes note of the report of the Secretary-General submitted pursuant to paragraph 41 of the declaration,[3] and requests the Sixth Committee to continue its consideration of ways and means of further developing the linkages between the rule of law and the three pillars of the United Nations;

2. *Acknowledges* the efforts to strengthen the rule of law through voluntary pledges, encourages all States to consider making pledges, individually or jointly, based on their national priorities, and also encourages those States that have made pledges to continue to exchange information, knowledge and best practices in this regard;

3. *Takes note* of the annual report of the Secretary-General on strengthening and coordinating United Nations rule of law activities;[4]

4. *Encourages* the Secretary-General and the United Nations system to accord high priority to rule of law activities;

5. *Reaffirms* the role of the General Assembly in encouraging the progressive development of international law and its codification, and further reaffirms that States shall abide by all of their obligations under international law;

6. *Also reaffirms* the imperative of upholding and promoting the rule of law at the international level in accordance with the principles of the Charter of the United Nations;

7. *Further reaffirms* its commitment to work tirelessly for the full implementation of the 2030 Agenda for Sustainable Development,[5] and recalls that the Sustainable Development Goals and targets are integrated and indivisible and balance the three dimensions of sustainable development;

8. *Recognizes* the role of multilateral treaty processes in advancing the rule of law, recalls the constructive debate held on this subtopic in the Sixth Committee during the seventieth session of the General Assembly, and in this regard:

(a) Reaffirms its support for the annual treaty event organized by the Secretary-General, and welcomes the organization of workshops on treaty practice by the Treaty Section of the Office of Legal Affairs of the Secretariat, both at the regional level and at United Nations Headquarters, as an important capacity-building initiative, and invites States to continue to support this activity;

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[1] Resolution 60/1.
[2] Resolution 67/1.
[3] A/68/213/Add.1.
[4] A/71/169.
[5] Resolution 70/1.

(b) Commends the Secretary-General for his review of the regulations giving effect to Article 102 of the Charter, and takes note of the recommendations for consideration by the Sixth Committee contained in his annual report;[6]

(c) Welcomes the efforts made to develop and enhance the United Nations electronic treaty database, providing online access to comprehensive information on the depositary functions of the Secretary-General and the registration and publication of treaties under Article 102 of the Charter, and encourages the continuation of such efforts in the future, while bearing in mind that many developing countries lack affordable access to information and communications technologies;

(d) Recognizes the importance of the legal publications prepared by the Treaty Section, takes note of the information provided by the Secretary-General in his annual report,[7] and stresses the need to update the *Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties* in the light of these new developments and practices;

9. *Recalls* the constructive debate held on the subtopic "Sharing national practices of States in the implementation of multilateral treaties" in the Sixth Committee during the seventy-first session of the General Assembly, welcomes the technical assistance provided by the United Nations system to Member States, upon their request, in the implementation of multilateral treaties at the national level as a tangible contribution to strengthening the rule of law at both the national and international levels, and commends the efforts made by States in this regard;

10. *Also recalls* the constructive debate held on the subtopic "Practical measures to facilitate access to justice for all, including for the poorest and most vulnerable" in the Sixth Committee during the seventy-first session, which highlighted, inter alia, the importance of appropriate tools and measures to promote the legal empowerment of individuals, and recognizes the role of this subtopic in advancing the rule of law;

11. *Welcomes* the dialogue initiated by the Rule of Law Coordination and Resource Group and the Rule of Law Unit in the Executive Office of the Secretary-General with Member States on the topic "Promoting the rule of law at the international level", and calls for the continuation of this dialogue with a view to fostering the rule of law at the international level;

12. *Recognizes* the importance of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law to the furtherance of United Nations rule of law programmes and activities, emphasizes that further technical assistance and capacity-building initiatives, focused on increasing and improving the participation of Member States in the multilateral treaty process, should be examined, and invites States to support these activities;

13. *Stresses* the importance of adherence to the rule of law at the national level and the need to strengthen support to Member States, upon their request, in the domestic implementation of their respective international obligations through

[6] A/71/169, sect. II.D.
[7] Ibid., sect. II.E.

enhanced technical assistance and capacity-building in order to develop, reinforce and maintain domestic institutions active in the promotion of rule of law at the national and international levels, subject to national ownership, strategies and priorities;

14. *Reiterates its request* to the Secretary-General to ensure greater coordination and coherence among the United Nations entities and with donors and recipients, and reiterates its call for greater evaluation of the effectiveness of such activities, including possible measures to improve the effectiveness of those capacity-building activities;

15. *Calls*, in this context, for dialogue to be enhanced among all stakeholders, with a view to placing national perspectives at the centre of rule of law assistance in order to strengthen national ownership, while recognizing that rule of law activities must be anchored in a national context and that States have different national experiences in the development of their systems of the rule of law, taking into account their legal, political, socioeconomic, cultural, religious and other local specificities, while also recognizing that there are common features founded on international norms and standards;

16. *Calls upon* the Secretary-General and the United Nations system to systematically address, as appropriate, aspects of the rule of law in relevant activities, including the participation of women in rule of law-related activities, recognizing the importance of the rule of law to virtually all areas of United Nations engagement;

17. *Expresses full support* for the overall coordination and coherence role of the Rule of Law Coordination and Resource Group within the United Nations system, within existing mandates, supported by the Rule of Law Unit and under the leadership of the Deputy Secretary-General;

18. *Requests* the Secretary-General to submit, in a timely manner, his next annual report on United Nations rule of law activities, in accordance with paragraph 5 of its resolution 63/128 of 11 December 2008, addressing, in a balanced manner, the national and international dimensions of the rule of law;

19. *Recognizes* the importance of restoring confidence in the rule of law as a key element of transitional justice;

20. *Recalls* the commitment of Member States to take all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid, encourages further dialogue and the sharing of national practices and expertise in strengthening the rule of law through access to justice, including with regard to the provision of birth registration for all, appropriate registration and documentation of refugees, migrants, asylum seekers and stateless persons, and legal aid, where appropriate, in both criminal and civil proceedings, and in this regard recognizes the role of knowledge and technology, including in judicial systems, and stresses the need to intensify the assistance extended to Governments upon their request;

21. *Stresses* the importance of promoting the sharing of national practices and of inclusive dialogue, welcomes the proposals made by the Secretary-General, inviting Member States to voluntarily exchange national best practices on the rule of

law in informal meetings and on an electronic depository of best practices on the United Nations rule of law website, and invites Member States to do so;

22. *Invites* the International Court of Justice, the United Nations Commission on International Trade Law and the International Law Commission to continue to comment, in their respective reports to the General Assembly, on their current roles in promoting the rule of law;

23. *Invites* the Rule of Law Coordination and Resource Group and the Rule of Law Unit to continue their dialogue with all Member States by interacting with them in a regular, transparent and inclusive manner, in particular in informal briefings, and welcomes the informal briefings held during the seventieth session;

24. *Requests* the Secretary-General to further elaborate on a review of the regulations giving effect to Article 102 of the Charter, taking into account recent developments, and to prepare a report on the registration and publication of treaties and international agreements pursuant to Article 102 of the Charter, to be submitted well in advance of the seventy-second session of the General Assembly;

25. *Stresses* the need for the Rule of Law Unit to carry out its tasks in an effective and sustainable manner and the need to provide it with reasonable means required to that effect;

26. *Decides* to include in the provisional agenda of its seventy-second session the item entitled "The rule of law at the national and international levels", and invites Member States to focus their comments during the upcoming Sixth Committee debate on the subtopic "Ways and means to further disseminate international law to strengthen the rule of law".